Journal of the House

State of Indiana

115th General Assembly *Second Regular Session*

Twenty-third Meeting Day **Tuesday Morning** **February 26, 2008**

The House convened at 9:30 a.m. with Speaker B. Patrick Bauer in the Chair.

The Speaker read a prayer for health and well-being (printed November 20, 2007).

The Pledge of Allegiance to the Flag was led by Representative Randy L. Borror.

The Speaker ordered the roll of the House to be called:

Austin
Avery
Bardon
Bartlett
Battles
Behning
Bell
Bischoff
Blanton
Borders
Borror
Bosma
C. Brown
T. Brown
Buck
Buell
Burton
Candelaria Reardon
Cheatham
Cherry
Cochran
Crawford
Crooks
Crouch
Davis
Day
Dembowski
Dermody
Dobis
Dodge
Duncan
Dvorak
Eberhart
Elrod
Espich
Foley
Friend
Frizzell
Fry
GiaQuinta
Goodin
Grubb
Gutwein
E. Harris
T. Harris
Herrell
Hinkle
Hoy
Kersey
Klinker
Knollman
Koch
L. Lawson
Lehe
Leonard
Lutz
Mays
McClain
Micon
Moses
Murphy
Neese
Niezgodski
Noe
Orentlicher
Oxley
Pelath
Pflum
Pierce
Pond
Porter
Reske
Richardson
Ripley
Robertson
Ruppel
Saunders
Simms
M. Smith
V. Smith
Soliday
Stemler
Steuerwald
Stevenson
Stilwell
Stutzman
Summers
Thomas
Thompson
Tincher
Torr
Turner
Tyler
Ulmer
VanDenburgh
VanHaaften
Walorski
Welch
Wolkins
Mr. Speaker

Roll Call 218: 100 present. The Speaker announced a quorum in attendance.

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Thursday, February 28, 2008, at 10:00 a.m.

FRY

The motion was adopted by a constitutional majority.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has not concurred in House amendments to Engrossed Senate Bill 31 and the President Pro Tempore has appointed the following Senators a conference committee to meet and confer with a like committee of the House on said bill, and to report thereon:

Conferees: Zakas, Chair; and Arnold
Advisors: Landske and Broden

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has not concurred in House amendments to Engrossed Senate Bill 62 and the President Pro Tempore has appointed the following Senators a conference committee to meet and confer with a like committee of the House on said bill, and to report thereon:

Conferees: Steele, Chair; and Broden
Advisors: Drozda and Tallian

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has not concurred in House amendments to Engrossed Senate Bill 91 and the President Pro Tempore has appointed the following Senators a conference committee to meet and confer with a like committee of the House on said bill, and to report thereon:

Conferees: Delph, Chair; and Skinner
Advisors: Becker and Sipes

MARY C. MENDEL
Principal Secretary of the Senate

ENROLLED ACTS SIGNED

The Speaker announced that he had signed House Enrolled Acts 1016, 1067, 1112, 1120, 1129, 1145, 1156, 1193, 1202, 1203, 1213, 1227, 1234, 1243, 1244, and 1253 and Senate

Enrolled Acts 26, 46, 233, 250, and 305 on February 25.

ENGROSSED SENATE BILLS ON SECOND READING

The following bills were called down by their respective sponsors, were read a second time by title, and, there being no amendments, were ordered engrossed: Engrossed Senate Bills 117, 118, 134, 207, 257, 314, 334, and 350

ENGROSSED SENATE BILLS ON THIRD READING

Engrossed Senate Bill 78

Representative VanHaaften called down Engrossed Senate Bill 78 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning probate and trusts.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 219: yeas 99, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Engrossed Senate Bill 213

Representative Stilwell called down Engrossed Senate Bill 213 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 220: yeas 53, nays 45. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Engrossed Senate Bill 235

Representative Pierce called down Engrossed Senate Bill 235 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 221: yeas 74, nays 25. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 2:00 p.m. with the Speaker in the Chair.

The Speaker ordered the roll of the House to be called to determine the presence or absence of a quorum. Roll Call 222: 89 present. The Speaker declared a quorum present.

ENGROSSED SENATE BILLS ON SECOND READING

Engrossed Senate Bill 175

Representative Austin called down Engrossed Senate Bill 175 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 22

Representative Porter called down Engrossed Senate Bill 22 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 22–1)

Mr. Speaker: I move that Engrossed Senate Bill 22 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 20-28-5-3, AS AMENDED BY P.L.166-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The department shall designate:

(1) the grade point average required for each type of license; and

(2) the types of licenses to which the teachers' minimum salary laws apply, including nonrenewable one (1) year limited licenses.

(b) The department shall determine details of licensing not provided in this chapter, including requirements regarding the following:

(1) The conversion of one (1) type of license into another.

(2) The accreditation of teacher education schools and departments.

(3) The exchange and renewal of licenses.

(4) The endorsement of another state's license.

(5) The acceptance of credentials from teacher education institutions of another state.

(6) The academic and professional preparation for each type of license.

(7) The granting of permission to teach a high school subject area related to the subject area for which the teacher holds a license.

(8) The issuance of licenses on credentials.

(9) The type of license required for each school position.

(10) The size requirements for an elementary school requiring a licensed principal.

(11) Any other related matters.

The department shall establish at least one (1) system for renewing a teaching license that does not require a graduate degree.

(c) **This subsection does not apply to an applicant for a substitute teacher license.** After June 30, 2007, the department may not issue an initial teaching license at any grade level to an applicant for an initial teaching license unless the applicant shows evidence that the applicant:

(1) has successfully completed training approved by the department in:

(A) cardiopulmonary resuscitation that includes a test demonstration on a mannequin;

(B) removing a foreign body causing an obstruction in an airway; and

(C) the Heimlich maneuver;

(2) holds a valid certification in each of the procedures described in subdivision (1) issued by:

(A) the American Red Cross;

(B) the American Heart Association; or

(C) a comparable organization or institution approved by the advisory board; or

(3) has physical limitations that make it impracticable for the applicant to complete a course or certification described in subdivision (1) or (2).

(d) The department shall periodically publish bulletins regarding:

(1) the details described in subsection (b);

(2) information on the types of licenses issued;

(3) the rules governing the issuance of each type of license; and

(4) other similar matters.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 22 as printed February 22, 2008.)

THOMPSON

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 81

Representative Herrell called down Engrossed Senate Bill 81 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 111

Representative Porter called down Engrossed Senate Bill 111 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Dobis.

Engrossed Senate Bill 143

Representative C. Brown called down Engrossed Senate Bill 143 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 143–3)

Mr. Speaker: I move that Engrossed Bill 143 be amended to read as follows:

Page 9, delete lines 40 through 42.

Page 10, delete lines 1 through 4.

Page 10, delete lines 13 through 25.

Page 11, delete lines 24 through 27.

Page 17, delete lines 27 through 42.

Delete page 18.

Page 19, delete lines 1 through 4.

Renumber all SECTIONS consecutively.

(Reference is to ESB 143 as printed February 22, 2008.)

TURNER

After discussion, Representative Turner withdrew the motion.

HOUSE MOTION
(Amendment 143–5)

Mr. Speaker: I move that Engrossed Senate Bill 143 be amended to read as follows:

Page 11, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 27. IC 16-21-2-2.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.7. (a) This section applies after July 1, 2011.**

(b) Except as provided in subsection (c), an abortion clinic that is located in a building that was built before 1978 shall:

(1) ensure that the building is evaluated by means of:

(A) an initial risk assessment not later than December 31, 2011; and

(B) a clearance examination at least every three (3) years after December 31, 2011;

by a person who is licensed under IC 13-17-14; and

(2) if a lead hazard is found, keep children out of the area with the lead hazard until the lead hazard is remediated and the area is demonstrated to be lead hazard free through a clearance examination.

(c) An abortion clinic is not required to comply with subsection (b) if:

(1) the abortion clinic has a lead-based paint inspection conducted under IC 13-17-14; and

(2) one (1) of the following applies:

(A) The lead-based paint inspection results indicate that no lead-based paint exists.

(B) Abatement of any lead-based paint hazard that existed has occurred.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 143 as printed February 22, 2008.)

WALORSKI

Upon request of Representatives Walorski and Bosma, the Speaker ordered the roll of the House to be called. Roll Call 223: yeas 66, nays 32. Motion prevailed.

HOUSE MOTION
(Amendment 143–2)

Mr. Speaker: I move that Engrossed Senate Bill 143 be amended to read as follows:

Page 19, between lines 4 and 5, begin a new paragraph and insert:

"SECTION 33. IC 34-20.5 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 20.5. CAUSES OF ACTION: HAZARDOUS SUBSTANCES

Chapter 1. Application

Sec. 1. This article applies only to a person who:

(1) manufactures;

(2) imports; or

(3) is a wholesaler of;

a hazardous substance.

Sec. 2. This article does not apply to a hazardous substance:

(1) sold to a consumer; or

(2) used;

if more than ten (10) years have elapsed since the delivery of the hazardous substance to the initial user or consumer.

Chapter 2. Definitions

Sec. 1. As used in this article, "hazardous substance" means a consumer product (as defined by IC 16-18-2-69.2) that is described in IC 16-41-39.4-7(c)(1) or IC 16-41-39.4-7(c)(2).

Chapter 3. Liability

Sec. 1. A consumer or user who is injured by a hazardous substance may bring an action in tort against one (1) or more persons described in IC 34-20.5-1-1.

Sec. 2. A person described in IC 34-20.5-1-1 is strictly liable in tort for any injury sustained by a consumer or user that is proximately caused by the hazardous substance.

Sec. 3. If an action is brought against more than one (1) person described in IC 34-20.5-1-1, the persons are jointly and severally liable for any injury sustained by the consumer or user.".

Page 19, delete lines 17 through 22.

Renumber all SECTIONS consecutively.

(Reference is to ESB 143 as printed February 22, 2008.)

VAN DENBURGH

Representative Foley rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was not well taken.

APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative VanDenburgh's amendment (143–2) does not violate House Rule 80. The amendment is not germane because the bill concerns children's lead poisoning prevention, while the amendment adds a new cause of action for exposure to hazardous materials.

During debate of the Ruling of the Chair, members of the majority party conveyed that the language of the amendment was in a prior version of Engrossed Senate Bill 143. However, upon research by minority staff, it was found that no such language

passed in any prior version of Engrossed Senate Bill 143. The closest language to the language offered in amendment is a reference to the state department having the ability to assess a civil penalty against a person for failure to provide complete information required in a report. (See Introduced Version of Senate Bill 143; see February 22, 2008, version of Senate Bill 143.) Further, even if it were true, the fact that the language was contained in a prior version of Engrossed Senate Bill 143, removed, and then attempted to be put back into the bill through this amendment, does not make the amendment language germane.

BOSMA
FOLEY

The Speaker Pro Tempore yielded the gavel to the Speaker.

The question was, Shall the ruling of the Chair be sustained? Roll Call 224: yeas 50, nays 48. The ruling of the Chair was sustained.

The question was on the motion of Representative VanDenburgh (143–2). Upon request of Representatives VanDenburgh and Dobis, the Speaker ordered the roll of the House to be called. Roll Call 225: yeas 52, nays 45. Motion prevailed.

HOUSE MOTION
(Amendment 143–4)

Mr. Speaker: I move that Engrossed Senate Bill 143 be amended to read as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 8.

Page 9, delete lines 1 through 34.

Page 19, line 12, delete "[EFFECTIVE JULY 1, 2008] The division of family", and insert: "[EFFECTIVE UPON PASSAGE] **(a) The legislative council shall assign to a study committee during the 2008 interim the responsibility to examine issues concerning requirements for:**

(1) the division of family resources;

(2) child care providers; and

(3) children who are served by child care providers; related to childhood lead poisoning prevention, including testing of child care facilities that were built before 1978 and children in child care.

(b) This SECTION expires December 31, 2008.".

Page 19, delete lines 13 through 16.

Renumber all SECTIONS consecutively.

(Reference is to ESB 143 as printed February 22, 2008.)

T. BROWN

Upon request of Representatives T. Brown and Bosma, the Speaker ordered the roll of the House to be called. Roll Call 226: yeas 57, nays 43. Motion prevailed. The bill was ordered engrossed.

With consent of the members, the Speaker proceeded to the end of the calendar, beginning with Engrossed Senate Joint Resolution 1.

Engrossed Senate Joint Resolution 1

Representative Crawford called down Engrossed Senate Joint Resolution 1 for second reading. The joint resolution was read a second time by title.

HOUSE MOTION
(Amendment 1–1)

Mr. Speaker: I move that Engrossed Senate Joint Resolution 1 be amended to read as follows:

Page 2, delete lines 32 through 36, begin a new line blocked indented and insert:

"**(1) A taxpayer's property tax liability on tangible property described in subsection (c)(4) may not exceed one percent (1%) of the gross assessed value of the property that is the basis for the determination of property taxes.**".

Page 3, delete lines 9 through 13, begin a new paragraph and insert:

"(g) Property taxes imposed after being approved by the voters in a referendum or local public question shall not be considered for purposes of calculating the limits to property tax liability under subsection (f).".

(Reference is to ESJR 1 as printed February 22, 2008.)

BORROR

Upon request of Representatives Bosma and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 227: yeas 50, nays 50. Motion failed. The joint resolution was ordered engrossed.

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Dobis.

Engrossed Senate Bill 352

Representative Bardon called down Engrossed Senate Bill 352 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 352–1)

Mr. Speaker: I move that Engrossed Senate Bill 352 be amended to read as follows:

Page 1, line 2, after "SECTION 9," insert "AS AMENDED BY SEA 156-2008, SECTION 1,".

Page 2, line 10, after "IC 16-19-3-5" insert "or IC 16-41-2-1".

Page 5, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 2. IC 5-10.3-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) The custodians must be banks or trust companies that are domiciled in the United States and approved by the ~~Indiana department of financial institutions under IC 28-1-2-39~~ **board** to:

(1) act in a fiduciary capacity; and

(2) manage custodial accounts;

~~in Indiana.~~ **on behalf of the fund.**

(b) The board is authorized to accept safekeeping receipts for securities held by the custodians. Each custodian must have a combined capital and surplus of at least ten million dollars ($10,000,000) according to the last published report of condition for the bank or trust company and have physical custody of such securities. The state board of accounts is authorized to rely on safekeeping receipts from the custodian. The custodian may be authorized by the agreement to:

(1) hold securities and other investments in the name of the fund, in the name of a nominee of the custodian, or in bearer form;

(2) collect and receive income, interest, proceeds of sale, maturities, redemptions, and all other receipts from the securities and other investments;

(3) deposit all the receipts collected and received under subdivision (2) in a custodian account or checking account as instructed by the board;

(4) reinvest the receipts collected and received under subdivision (2) as directed by the board;

(5) maintain accounting records and prepare reports which are required by the board and the state board of accounts; and

(6) perform other services for the board as are customary and appropriate for custodians.

(c) The custodian is responsible for all securities held in the name of its nominee for the fund.

SECTION 3. IC 5-10.4-3-13, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) The board may enter into a custodial agreement on terms the board considers in the

best interest of the fund with a bank or trust company that is domiciled in the United States and approved by the ~~Indiana department of financial institutions under IC 28-1-2-39~~ **board** to:

(1) act in a fiduciary capacity; and

(2) manage custodial accounts;

~~in Indiana.~~ **on behalf of the fund.**

(b) The agreement described in subsection (a) may authorize the custodian to:

(1) hold the fund's securities and other investments in the name of the fund or a nominee, or in bearer form;

(2) collect the income and other receipts from the securities and other investments and deposit them subject to the instructions of the board or the board's representative;

(3) reinvest the receipts on the direction of the board or the board's representative;

(4) maintain accounting records and prepare reports as may be required for use by the fund and the state board of accounts; and

(5) perform other services for the board that are appropriate and customary for the custodian.

(c) The custodian is responsible for all securities held in the name of its nominee for the fund.".

Page 10, line 34, delete ",".

Page 22, line 23, delete "database" and insert "**data base**".

Page 23, line 12, delete "database" and insert "**data base**".

Page 32, line 16, reset in roman "or".

Page 78, line 32, delete "a final order kept confidential under this subsection shall" and insert "**after two (2) years after the date of its issuance, a final order is no longer confidential under IC 28-1-2-30.**".

Page 78, delete lines 33 through 34.

Page 81, line 8, delete "(b)" and insert "**(a)**".

Page 85, line 13, before "IC 28-8-4-22;" insert "IC 28-1-2-39;".

Renumber all SECTIONS consecutively.

(Reference is to ESB 352 as printed February 15, 2008.)

BARDON

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 336

Representative C. Brown called down Engrossed Senate Bill 336 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 336–1)

Mr. Speaker: I move that Engrossed Senate Bill 336 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 16-41-37-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. A person who smokes:

(1) in a public building, except in an area designated as a smoking area under section 5 of this chapter;

(2) in the retail area of a grocery store or drug store that is designated as a nonsmoking area by the store's proprietor;

(3) in the dining area of a restaurant that is designated and posted as the restaurant's nonsmoking area by the restaurant's proprietor; ~~or~~

(4) in a school bus during a school week or while the school bus is being used for a purpose described in section 2.3(3) of this chapter;

(5) in a public means of mass transportation, including a train, an airplane, a taxicab, or a bus;

(6) in an enclosed area of a public mass transportation terminal or waiting area; or

(7) within one hundred (100) feet of an entrance to a public mass transportation terminal or waiting area;

commits a Class B infraction. However, the violation is a Class A infraction if the person has at least three (3) previous unrelated judgments for violating this section that are accrued within the twelve (12) months immediately preceding the violation.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 336 as printed February 22, 2008.)

TURNER

Motion failed. The bill was ordered engrossed.

Engrossed Senate Bill 331

Representative Fry called down Engrossed Senate Bill 331 for second reading. The bill was read a second time by title. Representative Fry withdrew the call of Engrossed Senate Bill 331.

Engrossed Senate Bill 329

Representative VanHaaften called down Engrossed Senate Bill 329 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 329–1)

Mr. Speaker: I move that Engrossed Senate Bill 329 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning pensions and courts.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 3-13-6-1, AS AMENDED BY P.L.119-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) As used in this section, "judge" refers to a judge of a circuit, superior, probate, or county court.

(b) If a judge wants to resign from office, the judge must resign as provided in IC 5-8-3.5.

(c) A vacancy that occurs because of the death of a judge may be certified to the governor under IC 5-8-6.

(d) A vacancy that occurs, other than by resignation or death of a judge, shall be certified to the governor by the circuit court clerk of the county in which the judge resided.

(e) A vacancy in the office of judge of a circuit court shall be filled by the governor as provided by Article 5, Section 18 of the Constitution of the State of Indiana. However, the governor may not fill a vacancy that occurs because of the death of a judge until the governor receives notice of the death under IC 5-8-6. The person who is appointed holds the office until:

(1) the end of the unexpired term; or

(2) a successor is elected at the next general election and qualified;

whichever occurs first. The person elected at the general election following an appointment to fill the vacancy, upon being qualified, holds office for the six (6) year term prescribed by Article 7, Section 7 of the Constitution of the State of Indiana and until a successor is elected and qualified.

(f) A vacancy in the office of judge of a superior, probate, or county court shall be filled by the governor subject to the following:

(1) IC 33-33-2-39.

(2) IC 33-33-2-43.

(3) IC 33-33-45-38.

~~(4) IC 33-33-71-40.~~

However, the governor may not fill a vacancy that occurs because of the death of a judge until the governor receives notice of the death under IC 5-8-6. The person who is appointed holds office for the remainder of the unexpired term.

SECTION 2. IC 5-8-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) Under Article 7, Section 13 of the Constitution of the State of

Indiana, whenever a circuit, superior, probate, or county court judge or prosecuting attorney has been convicted of corruption or any other high crime, the attorney general shall bring proceedings in the supreme court, on information, in the name of the state, for the removal from office of the judge or prosecuting attorney.

(b) If the judgment is against the defendant, the defendant is removed from office. The governor, the officer, or the entity required to fill a vacancy under IC 3-13-6-2 shall, subject to:

(1) IC 33-33-2-39;

(2) IC 33-33-2-43; **and**

(3) IC 33-33-45-38; ~~and~~

~~(4) IC 33-33-71-40;~~

appoint or select a successor to fill the vacancy in office.".

Page 16, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 12. IC 33-23-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. "Commission on judicial qualifications" ~~except as used in IC 33-33-71,~~ means the commission described in Article 7, Section 9 of the Constitution of the State of Indiana.

SECTION 13. IC 33-23-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. "Judicial nominating commission", except as used in IC 33-33-2 **and** IC 33-33-45, ~~and IC 33-33-71,~~ means the commission described in Article 7, Section 9 of the Constitution of the State of Indiana.".

Page 17, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 15. IC 33-33-71-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. **(a)** There is established a superior court in St. Joseph County. The court **has eight (8) divisions known as the:**

(1) St. Joseph superior court No. 1, a criminal division;

(2) St. Joseph superior court No. 2, a criminal division;

(3) St. Joseph superior court No. 3, a criminal division;

(4) St. Joseph superior court No. 4, a civil division;

(5) St. Joseph superior court No. 5, a civil division;

(6) St. Joseph superior court No. 6, a civil division;

(7) St. Joseph superior court No. 7, a civil division; and

(8) St. Joseph superior court No. 8, a criminal division. Each division consists of **one (1) judge for a total of** eight (8) judges.

(b) Each of the eight (8) judges of the St. Joseph superior court shall be elected in nonpartisan elections for a term of six (6) years that begins January 1 after the year of the judge's election and continues through December 31 in the sixth year.

(c) During the period under IC 3-8-2-4 in which a declaration of candidacy may be filed for a primary election, any person desiring to become a candidate for any one (1) of the judgeships shall file with the election division a declaration of candidacy:

(1) adapted from the form prescribed under IC 3-8-2;

(2) signed by the candidate; and

(3) designating which judgeship the candidate seeks. Any petition without the designation shall be rejected by the election division (or by the Indiana election commission under IC 3-8-1-2).

(d) If an individual who files a declaration under subsection (c) ceases to be a candidate after the final date for filing a declaration under subsection (c), the election division may accept the filing of additional declarations of candidacy for that judgeship not later than noon August 1.

(e) All candidates for each respective judgeship shall be listed on the general election ballot in the form prescribed by IC 3-11, without party designation. The candidate receiving the highest number of votes for each judgeship shall be elected to that office.

(f) IC 3, where not inconsistent with this chapter, applies to elections under this chapter.

SECTION 16. IC 33-33-71-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) The superior court, by rules duly adopted by the court, shall designate one (1) of the judges as chief judge and fix the time the chief judge presides.

(b) The chief judge shall be responsible for the operation and conduct of the court and to seeing that the court operates efficiently and judicially.

(c) The chief judge shall do the following:

(1) Assign cases to a judge of the court or reassign cases from one (1) judge of the court to another judge of the court to ensure the efficient operation and conduct of the court.

(2) Assign and allocate courtrooms, other rooms, and other facilities to ensure the efficient operation and conduct of the court.

(3) Annually submit to the fiscal body of St. Joseph County a budget for the court.

(4) Make appointments or selections on behalf of the court that are required of a superior court judge under any statute.

(5) ~~Direct the employment and management of~~ **Appoint** court personnel, **including:**

(A) a sufficient number of bailiffs, court reporters, and additional personnel necessary for the proper administration of the court; and

(B) an administrative officer;

whose duties and salaries shall be established by the chief judge and paid as provided by law.

(6) Conduct cooperative efforts with other courts for establishing and administering shared programs and facilities.

(7) Appoint two (2) full-time magistrates under IC 33-23-5. The magistrates continue in office until removed by the chief judge.

SECTION 17. IC 33-33-71-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37. (a) ~~The commission shall submit only the names of the five (5) most highly qualified candidates from among those eligible individuals considered.~~ To be eligible ~~for nomination~~ **to be a candidate to serve** as a judge of the St. Joseph superior court, a person:

(1) must be domiciled in the county of St. Joseph;

(2) must be a citizen of the United States; ~~and~~

(3) must be admitted to the practice of law **and have had at least five (5) years of practice** in the courts of Indiana **involving matters assigned to the division described in section 5(a) of this chapter in which the person would serve as judge;**

(4) may not previously have had any disciplinary sanction imposed upon the person by the supreme court disciplinary commission of Indiana or any similar body in another state; and

(5) may not previously have been convicted of any felony.

(b) ~~In abiding by the mandate in subsection (a), the commission shall evaluate in writing each eligible individual on the following factors:~~

~~(1) Law school record, including any academic honors and achievements.~~

~~(2) Contribution to scholarly journals and publications, legislative draftings, and legal briefs.~~

~~(3) Activities in public service, including:~~

~~(A) writings and speeches concerning public or civic affairs which are on public record, including but not limited to campaign speeches or writing, letters to newspapers, and testimony before public agencies;~~

~~(B) efforts and achievements in improving the administration of justice; and~~

~~(C) other conduct relating to the individual's profession.~~

~~(4) Legal experience, including the number of years of practicing law, the kind of practice involved, and reputation as a trial lawyer or judge.~~

~~(5) Probable judicial temperament.~~

~~(6) Physical condition, including age, stamina, and possible habitual intemperance.~~

~~(7) Personality traits, including the exercise of sound judgment, ability to compromise and conciliate patience, decisiveness, and dedication.~~

~~(8) Membership on boards of directors, financial interest, and any other consideration that might create conflict of interest with a judicial office.~~

~~(9) Any other pertinent information that the commission feels is important in selecting the best qualified individuals for judicial office.~~

~~(c) Written evaluations may not be made on an individual until the individual states in writing that the individual desires to hold a judicial office that is or will be created by vacancy.~~

~~(d) The political affiliations of any candidate may not be considered by the commission in evaluating and determining which eligible candidates shall be recommended to the governor for a vacancy on the St. Joseph superior court.~~ **This subsection does not apply to a judge or magistrate serving on the court on March 15, 2008. A person who does not meet the eligibility requirements described in subsection (a) on the date the person files a declaration of candidacy under section 5(c) of this chapter may not be listed on the general election ballot.**

SECTION 18. IC 33-33-71-44 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 44. (a) During a term of office, a judge of the St. Joseph superior court may not:

(1) engage in the practice of law;

(2) run for an elective office other than a judicial office; or

(3) directly or indirectly make any contributions to or hold any office in a political party or organization.

(b) A judge **or candidate for judge** may not take part in any political campaign except as a candidate for ~~retention in~~ judicial office and, in that event, the judge's **or candidate's** campaign participation must:

(1) be ~~absolutely~~ devoid of partisan association; and

(2) be limited to activities designed to acquaint the electorate with the judge's ~~judicial record.~~ **or candidate's qualifications.**

~~(b) Failure to comply with this section is sufficient cause for the commission on judicial qualifications established by section 45 of this chapter to recommend to the supreme court that the judge be censured or removed from office.~~".

Page 38, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 43. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 33-33-71-16; IC 33-33-71-17; IC 33-33-71-22; IC 33-33-71-25; IC 33-33-71-29; IC 33-33-71-30; IC 33-33-71-31; IC 33-33-71-32; IC 33-33-71-33; IC 33-33-71-34; IC 33-33-71-35; IC 33-33-71-36; IC 33-33-71-38; IC 33-33-71-39; IC 33-33-71-40; IC 33-33-71-41; IC 33-33-71-42; IC 33-33-71-43; IC 33-33-71-45; IC 33-33-71-46; IC 33-33-71-47; IC 33-33-71-48; IC 33-33-71-49; IC 33-33-71-50; IC 33-33-71-51; IC 33-33-71-52; IC 33-33-71-53; IC 33-33-71-54; IC 33-33-71-55; IC 33-33-71-56; IC 33-33-71-57; IC 33-33-71-58; IC 33-33-71-59; IC 33-33-71-60; IC 33-33-71-61; IC 33-33-71-62; IC 33-33-71-63; IC 33-33-71-64; IC 33-33-71-65; IC 33-33-71-66; IC 33-33-71-67; IC 33-33-71-68; IC 33-33-71-69; IC 34-46-2-30.4.".

Page 38, after line 41, begin a new paragraph and insert:

"SECTION 45. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding the amendment and repeal of provisions in IC 33-33-71 by this act, the term of a judge in office in the St. Joseph County superior court on the effective date of this SECTION does not terminate until the date that the term would have terminated under the law in effect on the day before the effective date of this SECTION.**

(b) The initial election under IC 33-33-71, as amended by this act, to fill a judge's position on the St. Joseph County superior court is the general election immediately preceding the date on which the term of the judge occupying the position on the effective date of this SECTION would have terminated under the law in effect on the day before the effective date of this SECTION.

(c) Notwithstanding IC 33-33-71-5, as amended by this act, and IC 3-8-2-4, a person may become a candidate for any judgeship to be elected at the general election to be held on November 4, 2008, by:

(1) executing a declaration of candidacy that:

(A) is adapted from the form prescribed under IC 3-8-2;

(B) is signed by the candidate; and

(C) designates which judgeship the candidate seeks; and

(2) filing the declaration of candidacy with the election division after April 14, 2008, and before May 16, 2008.

Any petition without the designation referred to in subdivision (1)(C) shall be rejected by the election division (or by the Indiana election commission under IC 3-8-1-2). If an individual who files a declaration under this subsection ceases to be a candidate after the final date for filing a declaration under this subsection, the election division may accept the filing of additional declarations of candidacy for that judgeship not later than noon on August 1, 2008.

(d) This SECTION expires January 2, 2013.

SECTION 46. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 329 as printed February 22, 2008.)

DVORAK

Representative Foley rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was not well taken.

APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Dvorak's amendment (329–1) does not violate House Rule 80. Amendment 1 concerns the establishment of elections for judges in St. Joseph County, yet the underlying bill concerns judges' pensions. The amendment is most certainly not germane to the bill.

BOSMA
FOLEY

The Speaker Pro Tempore, Representative Dobis, yielded the gavel to the Deputy Speaker Pro Tempore, Representative E. Harris.

The question was, Shall the ruling of the Chair be sustained? Roll Call 228: yeas 49, nays 49. The ruling of the Chair was sustained.

The Deputy Speaker Pro Tempore yielded the gavel to the Speaker Pro Tempore, Representative Dobis.

The question then was on the motion of Representative Dvorak (329–1). Upon request of Representatives Fry and Dvorak, the Speaker ordered the roll of the House to be called. Roll Call 229: yeas 45, nays 49. Motion failed. The bill was ordered engrossed.

Engrossed Senate Bill 316

Representative Grubb called down Engrossed Senate Bill 316

for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 316–3)

Mr. Speaker: I move that Engrossed Senate Bill 316 be amended to read as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 38.

Page 39, delete lines 1 through 26, begin a new paragraph and insert:

"SECTION 1. IC 25-38.1-1-1, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. This article is an exercise of the police powers of the state to promote the public health, safety, and welfare of the people of Indiana to safeguard against the incompetent, dishonest, or unprincipled ~~practitioner~~ **practice** of veterinary medicine. The practice of veterinary medicine is a privilege conferred by the general assembly to individuals qualified under this ~~chapter.~~ **article.**

SECTION 2. IC 25-38.1-1-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.5. This article does not apply to the manufacture, distribution, storage, transportation, sale, or use of a veterinary drug, including antibiotics and immunization products, if federal or state law does not restrict the drug to:**

(1) use by; or

(2) use on the order of;

a licensed veterinarian.

SECTION 3. IC 25-38.1-1-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 3.5. "Accredited veterinary technology program" means a program in veterinary technology that:**

(1) conforms to the standards required for accreditation by the American Veterinary Medical Association; and

(2) is accredited by the American Veterinary Medical Association or an accrediting agency that has been approved by the United States Department of Education or its successor.

SECTION 4. IC 25-38.1-1-7.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 7.3. "Client" means the owner, the owner's agent, or other person who is responsible for an animal that is examined or treated by a veterinarian.**

SECTION 5. IC 25-38.1-1-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 7.5. "Consultation" means a licensed veterinarian receiving advice by any means from:**

(1) a veterinarian licensed in Indiana or another jurisdiction; or

(2) a person whose expertise, in the opinion of the licensed veterinarian, would benefit an animal.

SECTION 6. IC 25-38.1-1-7.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 7.6. "Contract operator" means an individual who contracts with the owner of an animal to provide complete care for the animal twenty-four (24) hours a day, seven (7) days a week.**

SECTION 7. IC 25-38.1-1-7.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 7.7. "Direct supervision" means a supervisor is readily available on the premises where the animal is being treated.**

SECTION 8. IC 25-38.1-1-9, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. "Extern" means a:

(1) senior veterinary student enrolled in an accredited college of veterinary medicine; or

(2) second year student enrolled in an ~~approved program in~~ **accredited** veterinary technology **program;**

employed by or working with a licensed veterinarian and under the licensed veterinarian's direct supervision.

SECTION 9. IC 25-38.1-1-9.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 9.3. "Impaired veterinary health care provider" means a veterinarian or registered veterinary technician who has been affected by the use or abuse of alcohol or other drugs.**

SECTION 10. IC 25-38.1-1-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 9.5. "Indirect supervision" means a supervising veterinarian is not on the premises but:**

(1) is present within the veterinarian's usual practice area;

(2) has given written protocols or oral instructions for the treatment of an animal for which a veterinarian-client-patient relationship exists; and

(3) is readily available by telephone or other means of immediate communication.

SECTION 11. IC 25-38.1-1-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 10.5. "Patient" means an animal that is examined or treated by a veterinarian.**

SECTION 12. IC 25-38.1-1-12, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. "Practice of veterinary medicine" means:

(1) representing oneself as engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry ~~in~~ **or** any of ~~its~~ **their** branches **or specialties;**

(2) using words, letters, or titles in a connection or under circumstances that may induce another person to believe that the person using them is engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry;

(3) accepting ~~remuneration~~ **compensation** for doing any of the things described in subdivisions (4) through ~~(7);~~ **(8);**

(4) ~~diagnosing a specific~~ **providing the diagnosis, treatment, correction, or prevention of any** disease, ~~or~~ **defect,** injury, **deformity, pain,** or ~~identifying and describing a disease process of animals, or performing any procedure for the diagnosis of pregnancy, sterility, or infertility upon~~ **condition of** animals;

(5) prescribing, **dispensing, or ordering the administration of** a drug, **a** medicine, **a biologic, a medical** appliance, ~~or~~ **an** application, or treatment of whatever nature for the prevention, cure, or relief of ~~bodily~~ **any disease, ailment, defect,** injury, ~~or disease~~ **deformity, pain, or other condition** of animals;

(6) performing a:

(A) surgical or dental operation; **or**

(B) complimentary or alternative therapy;

upon an animal; ~~or~~

(7) **certifying the health, fitness, or soundness of an animal; or**

(8) performing any procedure for the diagnosis of pregnancy, sterility, or infertility upon animals.

However, the term does not include administering a drug, medicine, appliance, application, or treatment ~~of whatever nature for the prevention, cure, or relief of a wound, fracture, or bodily injury or disease of animals, except where such drug, medicine, appliance, application, or treatment~~ **that** is administered at the

direction and under the direct supervision of a veterinarian licensed under this article.

SECTION 13. IC 25-38.1-1-13, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. "Registered veterinary technician" means a veterinary technician registered under this article to work under the direct **or indirect** supervision of a licensed veterinarian.

SECTION 14. IC 25-38.1-1-14.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 14.5. "Veterinarian-client-patient relationship" means a relationship between a veterinarian and client that meets the following conditions:**

(1) The veterinarian has assumed the responsibility for making clinical judgments regarding the health of the animal and the need for medical treatment, and the client has agreed to follow the veterinarian's instructions.

(2) The veterinarian has sufficient knowledge of the animal to initiate a diagnosis of the medical condition of the animal. The veterinarian has recently seen and is personally acquainted with the keeping and care of the animal by either of the following:

(A) An examination of the animal.

(B) By recently seeing and being personally acquainted with the keeping and care of representative animals and associated husbandry practices by making medically appropriate and timely visits to the premises where the animal is kept.

(3) The veterinarian is readily available or has arranged for emergency coverage for follow-up evaluation if there is an adverse reaction or failure of the treatment regimen.

(4) When appropriate, the veterinarian has arranged for continuing care with another licensed veterinarian who has access to the animal's medical record.

SECTION 15. IC 25-38.1-1-14.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 14.7. "Veterinary assistant" means an individual who is not a licensed veterinarian or registered veterinary technician who performs tasks related to animal health care under the direct supervision of a licensed veterinarian or registered veterinary technician.**

SECTION 16. IC 25-38.1-2-1, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) The Indiana board of veterinary medical examiners is established.

(b) The board consists of ~~six~~ ~~(6)~~ **seven (7)** members appointed by the governor from the districts described in section 3 of this chapter. Not more than one (1) veterinarian member may be domiciled in the same district.

(c) One (1) of the board members must be a registered veterinary technician.

~~(c)~~ **(d)** One (1) of the board members must be appointed to represent the general public.

~~(d)~~ **(e)** Not more than four (4) board members may be affiliated with the same political party.

~~(e)~~ **(f)** If there is a vacancy on the board, the governor shall appoint a successor to complete the unexpired term.

SECTION 17. IC 25-38.1-2-2, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The term of each member of the board is four (4) years beginning on September 1 of the appropriate year. Each member shall serve until the member's successor is appointed and qualified. Members of the board may be appointed for more than one (1) term, but an individual may not be a member of the board for more than eight (8) years out of any twelve (12) year period.

(b) The terms of the board members expire as follows:

(1) The term of the member from the first district expires on August 31, 2008, and every four (4) years thereafter.

(2) The term of the member from the second district expires on August 31, 2009, and every four (4) years thereafter.

(3) The term of the member from the third district expires on August 31, 2010, and every four (4) years thereafter.

(4) The term of the member from the fourth district expires on August 31, 2011, and every four (4) years thereafter.

(5) The term of the member from the fifth district expires on August 31, 2008, and every four (4) years thereafter.

(6) The term of the member appointed to represent the general public expires on August 31, 2009, and every four (4) years thereafter.

(7) The term of the registered technician member expires on August 31, 2012, and every four (4) years thereafter.

SECTION 18. IC 25-38.1-2-4, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) Each member of the board must have been a resident of Indiana for at least five (5) years continuously before appointment and must have been a:

(1) licensed veterinarian in the private practice of veterinary medicine; **or**

(2) registered veterinary technician;

in ~~the state~~ **Indiana** for at least three (3) of those years.

(b) Each member of the board must be a graduate of a school or college of veterinary medicine **or an accredited veterinary technology program** generally recognized as approved, according to the prevailing standard for recognition as a school or college of veterinary medicine at the time of the member's graduation.

(c) Each member of the board must be a person of good reputation within the profession and within the community in which the member resides.

(d) A member of the board may not be an officer, a director, or an employee in any manufacturing, wholesaling, or retail enterprise dealing in drugs, supplies, instruments, or equipment used or useful in the practice of veterinary medicine, which might constitute or tend to create a conflict of interest between the member's business association and membership on the board.

(e) A member of the board may not be a member of the faculty, board of trustees, or advisory board of a school of veterinary medicine or school of veterinary technology.

(f) Notwithstanding the other provisions of this section, one (1) member of the board, appointed to represent the general public, must be an Indiana resident who has never been associated with veterinary medicine in any way other than as a consumer.

SECTION 19. IC 25-38.1-2-7, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) At its annual meeting, the board shall elect a chairperson and vice chairperson and other necessary officers determined by the board. Officers shall serve for a term of one (1) year or until a successor is elected. There is no limitation on the number of terms an officer may serve.

(b) The state veterinarian shall be the technical adviser of the board.

(c) The duties of the agency include:

(1) corresponding for the board;

(2) keeping accounts and records of all receipts and disbursements by the board;

(3) keeping records of all applications for license or registration;

(4) keeping a register of all persons currently licensed or registered by the board; ~~and~~

(5) keeping permanent records of all board proceedings; **and**

(6) administering the veterinary investigative fund established by section 25 of this chapter.

SECTION 20. IC 25-38.1-2-9, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. The board is vested with the sole authority to determine the qualifications of applicants for:

(1) a license to practice veterinary medicine; and

(2) registration to practice as a **registered** veterinary technician;

in Indiana.

SECTION 21. IC 25-38.1-2-10, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. The board is vested with the sole authority to issue, renew, deny, suspend, or revoke:

(1) licenses and special permits to practice veterinary medicine; and

(2) registrations or special permits to practice as a **registered** veterinary technician;

in Indiana.

SECTION 22. IC 25-38.1-2-12, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. The board is vested with the sole authority to determine the following:

(1) The examinations applicants are required to take.

(2) The subjects to be covered **on the examinations.**

(3) The places where and the dates on which examinations will be given.

(4) The deadlines for applying to take the examinations.

SECTION 23. IC 25-38.1-2-13, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. The board may establish by rule minimum standards of continuing education for the renewal of licenses to practice veterinary medicine and for the renewal of registrations as a **registered** veterinary technician. The rules adopted under this section must comply with IC 25-1-4-3.

SECTION 24. IC 25-38.1-2-14, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. The board shall adopt by rule standards of professional conduct for the competent practice of veterinary medicine and the competent practice of a **registered** veterinary technician.

SECTION 25. IC 25-38.1-2-19, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. (a) The board shall establish by rule under IC 25-1-8 fees sufficient to implement this article, including fees for examining and licensing veterinarians and for examining and registering veterinary technicians.

(b) In addition to the fee to issue or renew a license, registration, or permit, the board may establish a fee of not more than ten dollars ($10) per year for a person who holds a license or special permit as a veterinarian or a registration or special permit as a veterinary technician to provide funds for administering and enforcing the provisions of this article, including investigating and taking action against persons who violate this article. All funds collected under this subsection shall be deposited in the veterinary investigative fund established by section 25 of this chapter.

~~(b)~~ **(c)** The fees established under this section shall be charged and collected by the agency.

SECTION 26. IC 25-38.1-2-25 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 25. (a) The veterinary investigative fund is established to provide funds for administering and enforcing the provisions of this article, including investigating and taking enforcement action against violators of this article. The fund shall be administered by the agency.**

(b) The expenses of administering the fund shall be paid from the money in the fund. The fund consists of money from the fee imposed under section 19(b) of this chapter.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund. However, if the total amount in the fund exceeds seven hundred fifty thousand dollars ($750,000) at the end of a state fiscal year after payment of all claims and expenses, the amount that exceeds seven hundred fifty thousand dollars ($750,000) reverts to the state general fund.

(e) Money in the fund is continually appropriated to the agency for its use in administering and enforcing this article, conducting investigations, and taking enforcement action against persons violating this article.

(f) The attorney general and the agency may enter into a memorandum of understanding to provide the attorney general with funds to conduct investigations and pursue enforcement action against violators of this article.

(g) The attorney general and the agency shall present the memorandum of understanding annually to the board for review.

SECTION 27. IC 25-38.1-3-1, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) A person may not practice veterinary medicine in Indiana unless the person:

(1) is licensed as a veterinarian in Indiana; or

(2) holds a special permit issued by the board.

~~(b) A person may not act as a veterinary technician in Indiana unless the person:~~

~~(1) is registered as a veterinary technician in Indiana; or~~

~~(2) holds a special permit issued by the board.~~

~~(c)~~ **(b)** The following persons are exempt from the licensing ~~registration,~~ or special permit requirements of this chapter:

(1) A veterinarian on the faculty of the School of Veterinary Medicine at Purdue University performing regular duties, or a veterinarian employed by the animal disease diagnostic laboratory established by IC 21-46-3-1 performing regular duties.

(2) A **veterinary medical officer serving in the United States armed forces or** veterinarian employed by a federal, state, or local government agency performing **veterinary medical services that are within the scope of** official duties **and are performed during the period of the person's service.**

(3) An individual who is a regular student in an accredited college of veterinary medicine ~~or veterinary technology~~ performing duties or actions assigned by ~~instructors~~ **the faculty of the School of Veterinary Medicine at Purdue University** or working under the direct supervision of a licensed veterinarian.

(4) An extern.

(5) A veterinarian **who is** licensed and **is a** resident in another state or ~~nation who occasionally~~ **country and** consults with a ~~licensed~~ veterinarian ~~in Indiana.~~ **licensed under this article.**

(6) ~~The~~ **An** owner **or a contract operator** of an animal or a regular employee of the owner **or a contract operator** caring for and treating an animal, except where the ownership of the animal was transferred for purposes of circumventing this chapter.

(7) A guest lecturing or giving instructions or

demonstrations at the School of Veterinary Medicine at Purdue University, or elsewhere, in connection with a continuing education program.

(8) An individual while engaged in bona fide scientific research that:

(A) reasonably requires experimentation involving animals; **and**

(B) is conducted in a facility or with a company that complies with federal regulations regarding animal welfare.

(9) A graduate of a foreign college of veterinary medicine who is in the process of obtaining an ECFVG certificate and who is under the direct supervision of ~~a licensed veterinarian.~~ **the faculty of the School of Veterinary Medicine at Purdue University.**

(10) A veterinarian who is enrolled in a postgraduate instructional program in an accredited college of veterinary medicine performing duties or actions assigned by ~~instructors or working under the direct supervision of a licensed veterinarian.~~ **the faculty of the School of Veterinary Medicine at Purdue University.**

(11) A member in good standing of another licensed or regulated profession within Indiana who:

(A) provides assistance requested by a veterinarian licensed under this article;

(B) acts with the consent of the client;

(C) acts within a veterinarian-client-patient relationship; and

(D) acts under the direct or indirect supervision of the licensed veterinarian.

SECTION 28. IC 25-38.1-3-2, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. To become a licensed veterinarian, a person must:

(1) not have a conviction for a crime that has a direct bearing on the person's ability to practice **ethically and** competently;

(2) not have committed an act that would have been a violation of IC 25-1-9-4 or IC 25-1-9-6;

~~(2)~~ **(3)** pay the fees required under this article;

~~(3)~~ **(4)** have successfully completed a program in veterinary medicine from an accredited college of veterinary medicine; and

~~(4)~~ **(5)** have successfully completed the examinations ~~provided under~~ **described in** section 4 of this chapter or qualify for a license without examination under section 5 of this chapter.

However, a person who was licensed as a veterinarian in Indiana on August 31, 1979, is not required to meet the requirements of subdivision ~~(3)~~ **(4)** or ~~(4).~~ **(5).**

SECTION 29. IC 25-38.1-3-4, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The board shall hold at least one (1) examination for licensing veterinarians and one (1) examination for registering veterinary technicians each year. However, the board may hold additional examinations. The agency shall give notice of the date, time, and place for each examination at least ninety (90) days before the date set for the examination. A person desiring to take an examination must make application not later than the time the board ~~may prescribe~~ **prescribes** under IC 25-38.1-2-12.

(b) The board must approve the preparation, administration, and grading of examinations **that comply with the following requirements:**

(1) Examinations **for licensure to practice as a veterinarian** must be designed to test the examinee's knowledge of and proficiency in the subjects and techniques commonly taught in veterinary schools. To pass the examination, the examinee must demonstrate scientific and practical knowledge sufficient to prove to the board that the examinee is competent to practice veterinary medicine. ~~or to act as a veterinary technician as the case may be.~~ The board may adopt and use examinations approved by the National Board of Veterinary Medical Examiners **for licensure to practice veterinary medicine.**

(2) Examinations for registration as a registered veterinary technician must be designed to test the examinee's knowledge of and proficiency in the subjects and techniques commonly taught in schools for veterinary technicians. To pass the examination, the examinee must demonstrate scientific and practical knowledge sufficient to prove to the board that the examinee is competent to act as a registered veterinary technician. The board may adopt and use examinations approved by the American Association of Veterinary State Boards for registration as a veterinary technician.

(c) To qualify for a license as a veterinarian or to be registered as a veterinary technician, the applicant must attain a passing score in the examinations.

(d) After the examinations, the agency shall notify each examinee of the result of the examinee's examinations. The board shall issue a license or registration certificate, as appropriate, to each individual who successfully completes the examinations and is otherwise qualified. The agency shall keep a permanent record of the issuance of each license or registration certificate.

(e) An individual who fails to pass the required examinations may apply to take a subsequent examination. Payment of the examination fee may not be waived.

(f) If an applicant fails to pass the required examination within three (3) attempts in Indiana or any other state, the applicant may not retake the required examination. The applicant may take subsequent examinations upon approval by the board and completion of remedial education as required by the board.

SECTION 30. IC 25-38.1-3-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 5.5. (a) An individual may not act as a registered veterinary technician unless the person is registered as a veterinary technician in Indiana or has been issued a special permit by the board.**

(b) An individual is not required to meet the registration requirements for a registered veterinary technician under this article while the individual is:

(1) a full-time student in an accredited veterinary technology program performing duties or actions assigned by faculty or staff of the accredited program; or

(2) working under the direct supervision of a licensed veterinarian to perform tasks that are an educational requirement of the accredited program.

SECTION 31. IC 25-38.1-3-6, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. To become a registered veterinary technician, a person must:

(1) not have a conviction for a crime that has a direct bearing on the person's ability to practice competently;

(2) pay the required fees;

(3) be at least eighteen (18) years of age;

(4) have successfully completed four (4) years of high school education or an acceptable equivalent;

(5) have either successfully completed an ~~approved program of~~ **accredited** veterinary technology **program** or have been a registered veterinary technician on August 31, 1981; and

(6) show that the person has the necessary knowledge and skills to be a registered veterinary technician, demonstrated by successfully passing the required examinations.

SECTION 32. IC 25-38.1-3-7, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) The board may refuse to issue a registration or may issue a probationary registration to an applicant for registration as a **registered** veterinary technician under this chapter if:

(1) the applicant has been disciplined by a licensing entity of another state or jurisdiction; and

(2) the violation for which the applicant was disciplined has a direct bearing on the applicant's ability to competently practice as a veterinary technician in Indiana.

(b) Whenever issuing a probationary registration under this section, the board may impose any or a combination of the following conditions:

(1) Report regularly to the board upon the matters that are the basis of the discipline of the other state or jurisdiction.

(2) Limit practice to those areas prescribed by the board.

(3) Continue or renew professional education.

(4) Engage in community restitution or service without compensation for a number of hours specified by the board.

(c) The board shall remove any limitations placed on a probationary registration issued under this section if the board finds after a hearing that the deficiency that required disciplinary action has been remedied.

(d) This section does not apply to an individual who currently holds a registration certificate under this chapter.

SECTION 33. IC 25-38.1-3-8, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. The board may issue a registration without an examination to a qualified applicant who:

(1) furnishes satisfactory proof that the applicant has successfully completed an ~~approved program of~~ **accredited** veterinary technology **program;**

(2) for the five (5) years immediately preceding filing an application has been acting as a registered veterinary technician in a state, territory, or district of the United States that has registration requirements substantially equivalent to the requirements of this chapter; and

(3) otherwise meets the requirements of this chapter.

SECTION 34. IC 25-38.1-3-11, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) A license issued under this chapter is valid until the next renewal date described under subsection (b).

(b) All licenses expire on ~~October 15~~ **a date set by the agency** in each odd-numbered year but may be renewed by application to the board and payment of the proper renewal fee. In accordance with IC 25-1-5-4(c), the agency shall mail a **notice** sixty (60) ~~day notice of~~ **days before the** expiration to each licensed veterinarian. ~~and provide the veterinarian with a form for renewal.~~ The agency shall issue a license renewal to each individual licensed under this chapter if the proper fee has been received and all other requirements for renewal of the license have been satisfied. Failure to renew a license on or before the expiration date automatically renders the license invalid without any action by the board.

SECTION 35. IC 25-38.1-3-12, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) A registration certificate issued under this chapter is valid until the next renewal date described under subsection (b).

(b) All registration certificates expire on ~~January 1~~ **a date set by the agency** of each even-numbered year but may be renewed by application to the board and payment of the proper renewal fee. In accordance with IC 25-1-5-4(c), the agency shall mail a **notice** sixty (60) ~~day notice of~~ **days before the** expiration to each registered veterinary technician. ~~and provide the veterinary technician with a form for renewal.~~ The agency shall issue a registration certificate renewal to each individual registered under this chapter if the proper fee has been received and all other requirements for renewal of the registration certificate have been satisfied. Failure to renew a registration certificate on or before the expiration date automatically renders the license invalid without any action by the board.

SECTION 36. IC 25-38.1-3-13, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) An individual who:

(1) practices veterinary medicine after the individual's license has expired, been revoked, or been placed on inactive status; or

(2) acts as a registered veterinary technician after the individual's registration has expired, been revoked, or been placed on inactive status;

violates this article.

(b) A veterinarian may renew an expired license or a **registered** veterinary technician may renew an expired registration certificate not later than five (5) years after the date of expiration by making written application for renewal and paying the required fee. **However, the board may require continuing education as a condition of renewal of an expired license.**

(c) A veterinarian may not renew an expired license, and a registered veterinary technician may not renew an expired registration certificate, after five (5) years have elapsed after the date of the expiration of a license or a registration certificate ~~the license or registration certificate may not be renewed,~~ but the person may make application for a new license or registration certificate and take the appropriate examinations.

~~(c)~~ **(d)** To have a license or registration placed on inactive status, a licensed veterinarian or registered veterinarian technician must notify the board in writing of the veterinarian's or technician's desire to have the license or registration placed on inactive status. The board shall waive the continuing education requirements, if any, and payment of the renewal fee during the period the license or registration of a veterinarian or technician is on inactive status. A license or registration may be placed on inactive status during the period:

(1) the veterinarian or technician is on active duty with any branch of the armed services of the United States;

(2) the veterinarian or technician is in the Peace Corps;

(3) the veterinarian or technician is in an alternative service during a time of national emergency;

(4) the veterinarian or technician is suffering from a severe medical condition that prevents the veterinarian or technician from meeting the requirements of the board; or

(5) after the veterinarian or technician retires.

A veterinarian or technician who is retired and on inactive status may not maintain an office or practice veterinary medicine. The board may adopt rules under IC 4-22-2 that establish prerequisites or conditions for the reactivation of an inactive license or registration.

SECTION 37. IC 25-38.1-4-1, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) During working hours or when actively performing the **registered veterinary** technician's duties, a registered veterinary technician must wear a unique mark of identification on the technician's clothing that is approved by the board and that identifies the technician as a registered veterinary technician.

(b) **An individual who is not** a registered veterinary technician may **not** use the title "registered veterinary technician", **"veterinary technician",** or the abbreviation "R.V.T.".

(c) An individual who is not a registered veterinary technician may not advertise or offer the individual's services in a manner calculated to lead others to believe that the individual is a ~~trained veterinary technician or a~~ registered veterinary technician.

SECTION 38. IC 25-38.1-4-2, AS ADDED BY SEA

190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. A:

(1) registered veterinary technician; **or**

(2) veterinary assistant;

may not diagnose, make a prognosis, prescribe medical or surgical treatment, or perform as a surgeon. However, the **registered veterinary** technician may perform routine procedures defined by board rules while under the direct **or indirect** supervision of a licensed veterinarian responsible for the technician's performance.

SECTION 39. IC 25-38.1-4-3, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. **(a)** A ~~licensed~~ **supervising** veterinarian ~~who is required to directly supervise an employee must be:~~

~~(1) present within the veterinarian's usual practice area;~~

~~(2) able to communicate directly with the employee at all times that the employee is performing animal health care; and~~

~~(3) prepared to personally assume treatment, if necessary for the welfare of the animal.~~

~~Direct communication may be verbal, by telephone, or by two-way radio. Instructions must be recorded by the employee and repeated by the employee to the employee's supervising licensed veterinarian.~~ **shall determine and is responsible for determining the appropriate level of supervision, except where prohibited by law, if the tasks being delegated are commensurate with employee's training, experience, and skills.**

(b) Registered veterinary technicians may, under direct or indirect supervision, perform routine food animal management practices if a valid veterinarian-client-patient relationship exists.

(c) A registered veterinary technician or veterinary assistant may not receive a fee or compensation for veterinary services other than salary or compensation paid by the establishment where the individual is employed.

(d) In the performance of delegated veterinary tasks, a registered veterinary technician and veterinary assistant shall do the following:

(1) Accept only those delegated veterinary tasks for which there are mutually approved protocols, written standing orders, or verbal directions.

(2) Accept only those delegated veterinary tasks that:

(A) the registered veterinary technician or veterinary assistant is competent to perform based on education, training, or experience; and

(B) are not prohibited by law.

(3) Consult with the supervising veterinarian in cases where the registered veterinary technician or veterinary assistant knows or should have known that a delegated veterinary task may harm an animal.

SECTION 40. IC 25-38.1-4-5, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. **(a)** A licensed veterinarian may write prescriptions. Pharmacists shall give the prescriptions written by a licensed veterinarian the same recognition given the prescriptions of persons holding an unlimited license to practice medicine or osteopathic medicine.

(b) A valid veterinarian-client-patient relationship must exist before a licensed veterinarian dispenses or prescribes a prescription product.

(c) Veterinary prescription products, including drugs and immunizing products restricted by state and federal law for use by licensed veterinarians, may not be diverted or transferred to an individual for use on an animal if there is not a current veterinarian-client-patient relationship with the original prescribing veterinarian.

(d) If a veterinarian prescribes a drug for the client's animal, upon request, the veterinarian shall provide the prescription to the client, unless prohibited by state or federal law or to prevent inappropriate use.

SECTION 41. IC 25-38.1-4-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 5.5. (a) Each person who provides veterinary medical services shall maintain medical records, as defined by rules adopted by the board.**

(b) Veterinary medical records include the following:

(1) Written records and notes, radiographs, sonographic images, video recordings, photographs or other images, and laboratory reports.

(2) Other information received as the result of consultation.

(3) Identification of any designated agent of the owner for the purpose of authorizing veterinary medical or animal health care decisions.

(4) Any authorizations, releases, waivers, or other related documents.

(c) The client is entitled to a copy or summary of the veterinary medical records. A veterinarian may charge a reasonable fee for copying or summarizing the requested veterinary medical record. The veterinarian may require that the request be in writing.

(d) Except as provided in subsection (e) or upon written authorization of the client, an animal's veterinary medical record and medical condition is confidential and may not be:

(1) furnished to; or

(2) discussed with;

any person other than the client or other veterinarians involved in the care or treatment of the animal.

(e) An animal's veterinary medical records and medical condition may be furnished without written client authorization under the following circumstances:

(1) Access to the records is specifically required by a state or federal statute.

(2) An order by a court with jurisdiction in a civil or criminal action upon the court's issuance of a subpoena and notice to the client or the client's legal representative.

(3) For statistical and scientific research, if the information is abstracted in a way as to protect the identity of the animal and the client.

(4) As part of an inspection or investigation conducted by the board or an agent of the board.

(5) As part of a request from a regulatory or health authority, physician, or veterinarian:

(A) to verify a rabies vaccination of an animal; or

(B) to investigate a threat to human or animal health, or for the protection of animal or public health and welfare.

(6) As a part of an animal cruelty report and associated applicable records that are part of an abuse investigation by law enforcement or a governmental agency.

(7) To a law enforcement agency as part of a criminal investigation.

(8) To the School of Veterinary Medicine at Purdue University, the animal disease diagnostic laboratory, or a state agency or commission. However, an animal's veterinary medical records remain confidential unless the information is disclosed in a manner allowed under this section.

(9) Veterinary medical records that are released by the board of animal health when in the judgment of the state veterinarian the disclosure is necessary or helpful in advancing animal health or protecting public health.

(f) An animal's veterinary medical records must be kept and maintained by the veterinarian for at least three (3) years after the veterinarian's last encounter with the animal.

SECTION 42. IC 25-38.1-4-6, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. Notwithstanding this chapter, in an emergency, in the absence of the licensed veterinarian employer, an employee **of a licensed veterinarian** may perform the duties it is lawful for the employee to perform under the direct supervision of ~~a~~ **the** licensed veterinarian according to the rules of the board and the written authority of the licensed veterinary employer.

Sec. 8. (a) An animal placed in the custody of a veterinarian is considered to be abandoned five (5) days after the veterinarian has given written notice to the individual who delivered the animal to the veterinarian that the animal should be reclaimed by the individual. Written notice must be delivered **by certified mail** to the place given by the individual as the individual's mailing address at the time the individual delivered the animal to the veterinarian.

(b) Abandonment of an animal under this section constitutes the relinquishment of all rights and claims by the owner of the animal. ~~The~~ **An** abandoned animal may be sold or otherwise disposed of as the veterinarian may see fit. The purchaser or recipient of ~~the~~ **an** abandoned animal shall receive full and clear title to the animal.

(c) The giving of notice as provided in this section relieves the veterinarian and all persons who receive an abandoned animal from the veterinarian of criminal or civil liability.

(d) The individual who delivered an animal abandoned under this section is liable for all reasonable and customary expenses incurred for diagnosis, treatment, hospitalization, surgery, board, euthanasia, and disposal of the abandoned animal.

SECTION 43. IC 25-38.1-4-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 8.5. A veterinarian or registered veterinary technician who reports in good faith and in the normal course of business a suspected incident of animal cruelty under IC 35-46-3-12 to a law enforcement officer is immune from liability in any civil or criminal action brought for reporting the incident.**

SECTION 44. IC 25-38.1-4-9, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. Upon written complaint sworn to by any individual, the board may, by the concurrence of four (4) members, after a hearing and based upon findings of fact, discipline a registered veterinary technician by revoking or suspending the technician's registration for a time certain, by placing the technician on probation, or by any other appropriate means for any of the following reasons:

(1) The use of fraud, misrepresentation, or deception in obtaining a registration.

(2) ~~Chronic~~ Intoxication or the unlawful use of a controlled substance.

(3) The use of advertising or solicitation that is false or misleading or is considered unprofessional under rules adopted by the board.

(4) Conviction of or a plea of guilty to the charge of a felony or misdemeanor involving moral turpitude.

(5) Incompetence, gross negligence, or malpractice in performing as a registered veterinary technician.

(6) Cruelty to animals.

(7) Representing the technician as a veterinarian.

(8) Disciplinary action taken against the technician's registration by the board or by the licensing agency of any other state or jurisdiction by reason of the technician's inability to practice safely as a registered veterinary technician, if the reason is valid in the opinion of the board.

SECTION 45. IC 25-38.1-4-10, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. A person who knowingly:

(1) practices veterinary medicine without a license or special permit to practice veterinary medicine issued by the board; or

(2) supplies false information on an application for a license as a veterinarian;

commits a ~~Class B~~ **Class A** misdemeanor.

SECTION 46. IC 25-38.1-4-11, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. A person who knowingly:

(1) acts as a registered veterinary technician without being registered as a veterinary technician with the board or having a special permit issued by the board; or

(2) supplies false information on an application for registration as a veterinary technician;

commits a ~~Class B~~ **Class A** misdemeanor.

SECTION 47. IC 25-38.1-4-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 11.5. Except as provided in sections 10 and 11 of this chapter, a person who violates this chapter commits a Class A infraction.**

SECTION 48. IC 25-38.1-5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 5. Impaired Veterinary Health Care Providers

Sec. 1. (a) The board shall assist in the rehabilitation of an impaired veterinary health care provider.

(b) The board may do the following:

(1) Enter into agreements, provide grants, and make other arrangements with statewide nonprofit professional associations, foundations, or other entities specifically devoted to the rehabilitation of impaired health care professionals to identify and assist impaired veterinary health care providers.

(2) Accept and designate grants and public and private financial assistance to fund programs under subdivision (1) to assist impaired veterinary health care providers.

Sec. 2. (a) Except as provided in section 3 of this chapter, all:

(1) information furnished to a nonprofit professional association, foundation, or other entity specifically devoted to the rehabilitation of impaired health care professionals, including interviews, reports, statements, and memoranda; and

(2) findings, conclusions, or recommendations that result from a proceeding of the professional association, foundation, or other entity specifically devoted to the rehabilitation of impaired health care professionals;

are privileged and confidential.

(b) The records of a proceeding under subsection (a)(2) may be used only in the exercise of proper functions of the board, and may not become public records or subject to a subpoena or discovery proceeding.

Sec. 3. Information received by the board from the board designated rehabilitation program for noncompliance by the impaired veterinary health care provider may be used by the board in a disciplinary or criminal proceeding instituted against the impaired veterinary health care provider.

Sec. 4. The board designated rehabilitation program shall:

(1) immediately report to the board the name and results of any contact or investigation concerning an impaired veterinary health care provider whom the program believes constitutes a certain, immediate, and impending danger to either the public or the impaired veterinary health care provider; and

(2) in a timely fashion report to the board an impaired veterinary health care provider:

(A) who refuses to cooperate with the program;

(B) who refuses to submit to treatment; or

(C) whose impairment is not substantially or

significantly alleviated through treatment, as determined by accepted medical standards.

Sec. 5. (a) The impaired veterinary health care provider fund is established to provide money for rehabilitation of impaired veterinary health care providers under this chapter. The agency shall administer the fund.

(b) Expenses of administering the fund shall be paid from money in the fund. The fund consists of any grants or public and private financial assistance designated for the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) Money in the fund is appropriated to the board for the purpose stated in subsection (a).".

Page 39, delete lines 32 through 42.

Page 40, delete lines 1 through 23.

Page 40, line 24, delete "IC 15-5-1.1 IS" and insert "THE FOLLOWING ARE".

Page 40, line 25, delete "." and insert ": IC 25-38.1-1-6; IC 25-38.1-1-16; IC 25-38.1-4-4.".

Page 40, delete lines 26 through 42.

Page 41, delete lines 1 through 20.

Renumber all SECTIONS consecutively.

(Reference is to ESB 316 as printed February 15, 2008.)

BATTLES

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 315

Representative Hoy called down Engrossed Senate Bill 315 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 315–4)

Mr. Speaker: I move that Engrossed Senate Bill 315 be amended to read as follows:

Page 4, delete lines 26 through 42.

Page 5, delete lines 1 through 5.

Page 5, line 39, delete "IC 12-22-2, IC 16-28," and insert "IC 16-28".

Page 7, line 33 delete ":".

Page 7, line 34, delete "(1)".

Page 7, line 34, after "health" insert ",".

Page 7, line 35, delete "; and" and insert ",".

Page 7, delete lines 36 through 38.

Page 7, run in lines 33 through 39.

Page 8, line 41, delete "biannual" and insert "**biennial**".

Page 9, line 34, delete "[EFFECTIVE JULY 1, 2008]" insert "[EFFECTIVE MARCH 31, 2008]".

Page 10, line 35, delete "A" and insert **"If the replacement bed is being transferred to a different health facility, a**".

Page 10, line 38, delete "A" and insert **"If the replacement bed is being transferred to a different health facility under different ownership, a**".

Page 10, after line 42, begin a new paragraph and insert:

"SECTION 14. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 315 as printed February 22, 2008.)

HOY

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 312

Representative Moses called down Engrossed Senate Bill 312 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 312–1)

Mr. Speaker: I move that Engrossed Senate Bill 312 be amended to read as follows:

Page 6, between lines 3 and 4, begin a new paragraph and insert:

SECTION 5. IC 5-3-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) This section applies only when notice of an event is required to be given by publication in accordance with IC 5-3-1.

(b) If the event is a public hearing or meeting concerning any matter not specifically mentioned in subsection (c), (d), (e), (f), (g), or (h) notice shall be published one (1) time, at least ten (10) days before the date of the hearing or meeting.

(c) If the event is an election, notice shall be published one (1) time, at least ten (10) days before the date of the election.

(d) If the event is a sale of bonds, notes, or warrants, notice shall be published two (2) times, at least one (1) week apart, with:

(1) the first publication made at least fifteen (15) days before the date of the sale; and

(2) the second publication made at least three (3) days before the date of the sale.

(e) If the event is the receiving of bids, notice shall be published two (2) times, at least one (1) week apart, with the second publication made at least seven (7) days before the date the bids will be received.

(f) If the event is the establishment of a cumulative or sinking fund, notice of the proposal and of the public hearing that is required to be held by the political subdivision shall be published two (2) times, at least one (1) week apart, with the second publication made at least three (3) days before the date of the hearing.

(g) If the event is the submission of a proposal adopted by a political subdivision for a cumulative or sinking fund for the approval of the department of local government finance, the notice of the submission shall be published one (1) time. The political subdivision shall publish the notice when directed to do so by the department of local government finance.

(h) If the event is the required publication of an ordinance, notice of the passage of the ordinance shall be published one (1) time within thirty (30) days after the passage of the ordinance.

(i) If the event is one about which notice is required to be published after the event, notice shall be published one (1) time within thirty (30) days after the date of the event.

(j) If the event is anything else, notice shall be published two (2) times, at least one (1) week apart, with the second publication made at least three (3) days before the event.

(k) In case any officer charged with the duty of publishing any notice required by law is unable to procure advertisement at the price fixed by law, or the newspaper refuses to publish the advertisement, it is sufficient for the officer to post printed notices in three (3) prominent places in the political subdivision, instead of advertisement in newspapers.

~~(l) If a notice of budget estimates for a political subdivision is published as required in IC 6-1.1-17-3, and the published notice contains an error due to the fault of a newspaper, the notice as presented for publication is a valid notice under this chapter.~~

~~(m) Notwithstanding subsection (j), if a notice of budget estimates for a political subdivision is published as required in IC 6-1.1-17-3, and if the notice is not published at least ten (10) days before the date fixed for the public hearing on the budget estimate due to the fault of a newspaper, the notice is a valid notice under this chapter if it is published one (1) time at least three (3) days before the hearing.~~

SECTION 6. IC 5-3-1-3, AS AMENDED BY P.L.1-2005, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Within sixty (60) days after the expiration of each calendar year, the fiscal officer of each civil city and town in Indiana shall publish an annual report of the receipts and expenditures of the city or town during the preceding calendar year.

(b) Not earlier than August 1 or later than August 15 of each

year, the secretary of each school corporation in Indiana shall publish an annual financial report.

(c) In the annual financial report the school corporation shall include the following:

(1) Actual receipts and expenditures by major accounts as compared to the budget ~~advertised under IC 6-1.1-17-3~~ for the prior calendar year.

(2) The salary schedule for all certificated employees (as defined in IC 20-29-2-4) as of June 30, with the number of employees at each salary increment. However, the listing of salaries of individual teachers is not required.

(3) The extracurricular salary schedule as of June 30.

(4) The range of rates of pay for all noncertificated employees by specific classification.

(5) The number of employees who are full-time certificated, part-time certificated, full-time noncertificated, and part-time noncertificated.

(6) The lowest, highest, and average salary for the administrative staff and the number of administrators without a listing of the names of particular administrators.

(7) The number of students enrolled at each grade level and the total enrollment.

(8) The assessed valuation of the school corporation for the prior and current calendar year.

(9) The tax rate for each fund for the prior and current calendar year.

(10) In the general fund, capital projects fund, and transportation fund, a report of the total payment made to each vendor for the specific fund in excess of two thousand five hundred dollars ($2,500) during the prior calendar year. However, a school corporation is not required to include more than two hundred (200) vendors whose total payment to each vendor was in excess of two thousand five hundred dollars ($2,500). A school corporation shall list the vendors in descending order from the vendor with the highest total payment to the vendor with the lowest total payment above the minimum listed in this subdivision.

(11) A statement providing that the contracts, vouchers, and bills for all payments made by the school corporation are in its possession and open to public inspection.

(12) The total indebtedness as of the end of the prior calendar year showing the total amount of notes, bonds, certificates, claims due, total amount due from such corporation for public improvement assessments or intersections of streets, and any and all other evidences of indebtedness outstanding and unpaid at the close of the prior calendar year.

(d) The school corporation may provide an interpretation or explanation of the information included in the financial report.

(e) The department of education shall do the following:

(1) Develop guidelines for the preparation and form of the financial report.

(2) Provide information to assist school corporations in the preparation of the financial report.

(f) The annual reports required by this section and IC 36-2-2-19 and the abstract required by IC 36-6-4-13 shall each be published one (1) time only, in accordance with this chapter.

(g) Each school corporation shall submit to the department of education a copy of the financial report required under this section. The department of education shall make the financial reports available for public inspection.

SECTION 7. IC 6-1.1-15-1, AS AMENDED BY P.L.1-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A taxpayer may obtain a review by the county board of a county or township official's action with respect to the assessment of the taxpayer's tangible property if the official's action requires the giving of notice to the taxpayer. At the time that notice is given to the taxpayer, the taxpayer shall also be informed in writing of:

(1) the opportunity for a review under this section, including a meeting under subsection (h) with the county or township official referred to in this subsection; and

(2) the procedures the taxpayer must follow in order to obtain a review under this section.

(b) In order to obtain a review of an assessment effective for the assessment date to which the notice referred to in subsection (a) applies, the taxpayer must file a notice in writing with the county or township official referred to in subsection (a) not later than forty-five (45) days after the date of the notice referred to in subsection (a).

(c) A taxpayer may obtain a review by the county board of the assessment of the taxpayer's tangible property effective for an assessment date for which a notice of assessment is not given as described in subsection (a). To obtain the review, the taxpayer must file a notice in writing with the township assessor of the township in which the property is subject to assessment. The right of a taxpayer to obtain a review under this subsection for an assessment date for which a notice of assessment is not given does not relieve an assessing official of the duty to provide the taxpayer with the notice of assessment as otherwise required by this article. ~~For an assessment date in a year before 2009,~~ The notice must be filed on or before May 10 of the year. ~~For an assessment date in a year after 2008, the notice must be filed not later than the later of:~~

~~(1) May 10 of the year; or~~

~~(2) forty-five (45) days after the date of the statement mailed by the county auditor under IC 6-1.1-17-3(b).~~

(d) A change in an assessment made as a result of a notice for review filed by a taxpayer under subsection (c) after the time prescribed in subsection (c) becomes effective for the next assessment date. A change in an assessment made as a result of a notice for review filed by a taxpayer under subsection (b) or (c) remains in effect from the assessment date for which the change is made until the next assessment date for which the assessment is changed under this article.

(e) The written notice filed by a taxpayer under subsection (b) or (c) must include the following information:

(1) The name of the taxpayer.

(2) The address and parcel or key number of the property.

(3) The address and telephone number of the taxpayer.

(f) A county or township official who receives a notice for review filed by a taxpayer under subsection (b) or (c) shall immediately forward the notice to the county board.

(g) The county board shall hold a hearing on a review under this subsection not later than one hundred eighty (180) days after the date of the notice for review filed by the taxpayer under subsection (b) or (c). The county board shall, by mail, give notice of the date, time, and place fixed for the hearing to the taxpayer and the county or township official with whom the taxpayer filed the notice for review. The taxpayer and the county or township official with whom the taxpayer filed the notice for review are parties to the proceeding before the county board.

(h) Before the county board holds the hearing required under subsection (g), the taxpayer may request a meeting by filing a written request with the county or township official with whom the taxpayer filed the notice for review to:

(1) attempt to resolve as many issues under review as possible; and

(2) seek a joint recommendation for settlement of some or all of the issues under review.

A county or township official who receives a meeting request under this subsection before the county board hearing shall meet with the taxpayer. The taxpayer and the county or township official shall present a joint recommendation reached under this subsection to the county board at the hearing required under subsection (g). The county board may adopt or reject the recommendation in whole or in part.

(i) At the hearing required under subsection (g):

(1) the taxpayer may present the taxpayer's reasons for disagreement with the assessment; and

(2) the county or township official with whom the taxpayer filed the notice for review must present:

(A) the basis for the assessment decision; and

(B) the reasons the taxpayer's contentions should be denied.

(j) The county board may not require a taxpayer to file documentary evidence or summaries of statements of testimonial evidence before the hearing required under subsection (g). If the action for which a taxpayer seeks review under this section is the assessment of tangible property, the taxpayer is not required to have an appraisal of the property in order to do the following:

(1) Initiate the review.

(2) Prosecute the review.

(k) Regardless of whether the county board adopts a recommendation under subsection (h), the county board shall prepare a written decision resolving all of the issues under review. The county board shall, by mail, give notice of its determination not later than one hundred twenty (120) days after the hearing under subsection (g) to the taxpayer, the county assessor, and the township assessor.

(l) If the maximum time elapses:

(1) under subsection (g) for the county board to hold a hearing; or

(2) under subsection (k) for the county board to give notice of its determination;

the taxpayer may initiate a proceeding for review before the Indiana board by taking the action required by section 3 of this chapter at any time after the maximum time elapses.

SECTION 8. IC 6-1.1-17-3, AS AMENDED BY P.L.219-2007, SECTION 49, AND AS AMENDED BY P.L.224-2007, SECTION 5, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The proper officers of a political subdivision shall formulate its estimated budget and its proposed tax rate and tax levy on the form prescribed by the department of local government finance and approved by the state board of accounts. ~~The political subdivision shall give notice by publication to taxpayers of:~~

~~(1) the estimated budget;~~

~~(2) the estimated maximum permissible levy;~~

~~(3) the current and proposed tax levies of each fund; and~~

~~(4) the amounts of excessive levy appeals to be requested.~~ ~~In the notice, the political subdivision shall also state the time and place at which a public hearing will be held on these items. The notice shall be published twice in accordance with IC 5-3-1 with the first publication at least ten (10) days before the date fixed for the public hearing. Beginning in 2009, the duties required by this subsection must be completed before August 10 of the calendar year. A political subdivision shall provide the estimated budget and levy information required for the notice under subsection (b) to the county auditor on the schedule determined by the department of local government finance.~~

~~(b) Beginning in 2009, before August 10 of a calendar year, the county auditor shall mail to the last known address of each person liable for any property taxes, as shown on the tax duplicate, or to the last known address of the most recent owner shown in the transfer book, a statement that includes:~~

~~(1) the assessed valuation as of the assessment date in the current calendar year of tangible property on which the person will be liable for property taxes first due and payable in the immediately succeeding calendar year and notice to the person of the opportunity to appeal the assessed valuation under *IC 6-1.1-15-1(b), IC 6-1.1-15-1(c),*~~

~~(2) the amount of property taxes for which the person will be liable to each political subdivision on the tangible property for taxes first due and payable in the immediately succeeding calendar year, taking into account all factors that affect that liability, including:~~

~~(A) the estimated budget and proposed tax rate and tax levy formulated by the political subdivision under subsection (a);~~

~~(B) any deductions or exemptions that apply to the assessed valuation of the tangible property;~~

~~(C) any credits that apply in the determination of the tax liability; and~~

~~(D) the county auditor's best estimate of the effects on the tax liability that might result from actions of:~~

~~*(i)* the county board of tax adjustment *(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008),* or~~

~~*(ii)* the department of local government finance;~~

~~(3) a prominently displayed notation that:~~

~~(A) the estimate under subdivision (2) is based on the best information available at the time the statement is mailed; and~~

~~(B) based on various factors, including potential actions by:~~

~~*(i)* the county board of tax adjustment *(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008),* or~~

~~*(ii)* the department of local government finance;~~

~~it is possible that the tax liability as finally determined will differ substantially from the estimate;~~

~~(4) comparative information showing the amount of property taxes for which the person is liable to each political subdivision on the tangible property for taxes first due and payable in the current year; and~~

~~(5) the date, time, and place at which the political subdivision will hold a public hearing on the political subdivision's estimated budget and proposed tax rate and tax levy as required under subsection (a).~~

~~(c) The department of local government finance shall:~~

~~(1) prescribe a form for; and~~

~~(2) provide assistance to county auditors in preparing;~~

~~statements under subsection (b). Mailing the statement described in subsection (b) to a mortgagee maintaining an escrow account for a person who is liable for any property taxes shall not be construed as compliance with subsection (b).~~

~~(d) The board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5-2 (before its repeal) may conduct the public hearing required under subsection (a):~~

~~(1) in any county of the solid waste management district; and~~

~~(2) in accordance with the annual notice of meetings published under IC 13-21-5-2.~~

~~(c)~~ **(b)** The trustee of each township in the county shall estimate the amount necessary to meet the cost of township assistance in the township for the ensuing calendar year. The township board shall adopt with the township budget a tax rate sufficient to meet the estimated cost of township assistance. The taxes collected as a result of the tax rate adopted under this subsection are credited to the township assistance fund.

~~(f)~~ **(c)** A county shall adopt with the county budget and the department of local government finance shall certify under section 16 of this chapter a tax rate sufficient to raise the levy necessary to pay the following:

(1) The cost of child services (as defined in IC 12-19-7-1) of the county payable from the family and children's fund.

(2) The cost of children's psychiatric residential treatment services (as defined in IC 12-19-7.5-1) of the county payable from the children's psychiatric residential treatment services fund.

A budget, tax rate, or tax levy adopted by a county fiscal body or

approved or modified by a county board of tax adjustment that is less than the levy necessary to pay the costs described in subdivision (1) or (2) shall not be treated as a final budget, tax rate, or tax levy under section 11
of this chapter.

SECTION 9. IC 6-1.1-17-5, AS AMENDED BY P.L.219-2007, SECTION 50, AND AS AMENDED BY P.L.224-2007, SECTION 6, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The officers of political subdivisions shall meet each year to fix the budget, tax rate, and tax levy of their respective subdivisions for the ensuing budget year as follows:

~~*(1) The fiscal body of a consolidated city and county, not later than the last meeting of the fiscal body in September.*~~

~~*(2) The fiscal body of a municipality, not later than September 30.*~~

~~*(3)*~~ *(1)* The board of school trustees of a school corporation that is located in a city having a population of more than one hundred five thousand (105,000) but less than one hundred twenty thousand (120,000), not later than:

(A) the time required in section 5.6(b) of this chapter; or

(B) September ~~*20*~~ *30* if a resolution adopted under section 5.6(d) of this chapter is in effect.

~~*(4)*~~ *(2)* The proper officers of all other political subdivisions, not later than September ~~*20.*~~ *30.*

~~Except in a consolidated city and county and in a second class city, the public hearing required by section 3 of this chapter must be completed at least ten (10) days before the proper officers of the political subdivision meet to fix the budget, tax rate, and tax levy. In a consolidated city and county and in a second class city, that public hearing, by any committee or by the entire fiscal body, may be held at any time after introduction of the budget.~~

(b) Ten (10) or more taxpayers may object to a budget, tax rate, or tax levy of a political subdivision fixed under subsection (a) by filing an objection petition with the proper officers of the political subdivision not more than seven (7) days after the hearing. The objection petition must specifically identify the provisions of the budget, tax rate, and tax levy to which the taxpayers object.

(c) If a petition is filed under subsection (b), the fiscal body of the political subdivision shall adopt with its budget a finding concerning the objections in the petition and any testimony presented at the adoption hearing.

(d) This subsection does not apply to a school corporation. Each year at least two (2) days before the first meeting *after September 20* of the county board of tax adjustment *(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)* held under IC 6-1.1-29-4, a political subdivision shall file with the county auditor:

(1) a statement of the tax rate and levy fixed by the political subdivision for the ensuing budget year;

(2) two (2) copies of the budget adopted by the political subdivision for the ensuing budget year; and

(3) two (2) copies of any findings adopted under subsection (c).

Each year the county auditor shall present these items to the county board of tax adjustment *(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)* at the board's first meeting *under IC 6-1.1-29-4 after September 20 of that year.*

(e) In a consolidated city and county and in a second class city, the clerk of the fiscal body shall, notwithstanding subsection (d), file the adopted budget and tax ordinances with the county board of tax adjustment *(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)* within two (2) days after the ordinances are signed by the executive, or within two (2) days after action is taken by the fiscal body to override a veto of the ordinances, whichever is later.

(f) If a fiscal body does not fix the budget, tax rate, and tax levy of the political subdivisions for the ensuing budget year as required under this section, the most recent annual appropriations and annual tax levy are continued for the ensuing budget year.

SECTION 10. IC 6-1.1-17-16, AS AMENDED BY P.L.1-2007, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) Subject to the limitations and requirements prescribed in this section, the department of local government finance may revise, reduce, or increase a political subdivision's budget by fund, tax rate, or tax levy which the department reviews under section 8 or 10 of this chapter.

(b) Subject to the limitations and requirements prescribed in this section, the department of local government finance may review, revise, reduce, or increase the budget by fund, tax rate, or tax levy of any of the political subdivisions whose tax rates compose the aggregate tax rate within a political subdivision whose budget, tax rate, or tax levy is the subject of an appeal initiated under this chapter.

(c) Except as provided in subsections (j) and (k), before the department of local government finance reviews, revises, reduces, or increases a political subdivision's budget by fund, tax rate, or tax levy under this section, the department must hold a public hearing on the budget, tax rate, and tax levy. The department of local government finance shall hold the hearing in the county in which the political subdivision is located. The department of local government finance may consider the budgets by fund, tax rates, and tax levies of several political subdivisions at the same public hearing. At least five (5) days before the date fixed for a public hearing, the department of local government finance shall give notice of the time and place of the hearing and of the budgets by fund, levies, and tax rates to be considered at the hearing. The department of local government finance shall publish the notice in two (2) newspapers of general circulation published in the county. However, if only one (1) newspaper of general circulation is published in the county, the department of local government finance shall publish the notice in that newspaper.

(d) Except as provided in subsection (i), IC 20-45, IC 20-46, or IC 6-1.1-18.5, the department of local government finance may not increase a political subdivision's budget by fund, tax rate, or tax levy to an amount which exceeds the amount originally fixed by the political subdivision. However, if the department of local government finance determines that IC 5-3-1-2.3(b) applies to the tax rate, tax levy, or budget of the political subdivision, the maximum amount by which the department may increase the tax rate, tax levy, or budget is the amount originally fixed by the political subdivision, and not the amount that was incorrectly published or omitted in the notice described in IC 5-3-1-2.3(b). The department of local government finance shall give the political subdivision written notification specifying any revision, reduction, or increase the department proposes in a political subdivision's tax levy or tax rate. The political subdivision has two (2) weeks from the date the political subdivision receives the notice to provide a written response to the department of local government finance's Indianapolis office. The response may include budget reductions, reallocation of levies, a revision in the amount of miscellaneous revenues, and further review of any other item about which, in the view of the political subdivision, the department is in error. The department of local government finance shall consider the adjustments as specified in the political subdivision's response if the response is provided as required by this subsection and shall deliver a final decision to the political subdivision.

(e) The department of local government finance may not approve a levy for lease payments by a city, town, county, library, or school corporation if the lease payments are payable to a building corporation for use by the building corporation for

debt service on bonds and if:

(1) no bonds of the building corporation are outstanding; or

(2) the building corporation has enough legally available funds on hand to redeem all outstanding bonds payable from the particular lease rental levy requested.

(f) The department of local government finance shall certify its action to:

(1) the county auditor;

(2) the political subdivision if the department acts pursuant to an appeal initiated by the political subdivision;

(3) the taxpayer that initiated an appeal under section 13 of this chapter, or, if the appeal was initiated by multiple taxpayers, the first ten (10) taxpayers whose names appear on the statement filed to initiate the appeal; and

(4) a taxpayer that owns property that represents at least ten percent (10%) of the taxable assessed valuation in the political subdivision.

(g) The following may petition for judicial review of the final determination of the department of local government finance under subsection (f):

(1) If the department acts under an appeal initiated by a political subdivision, the political subdivision.

(2) If the department:

(A) acts under an appeal initiated by one (1) or more taxpayers under section 13 of this chapter; or

(B) fails to act on the appeal before the department certifies its action under subsection (f);

a taxpayer who signed the statement filed to initiate the appeal.

(3) If the department acts under an appeal initiated by the county auditor under section 14 of this chapter, the county auditor.

(4) A taxpayer that owns property that represents at least ten percent (10%) of the taxable assessed valuation in the political subdivision.

The petition must be filed in the tax court not more than forty-five (45) days after the department certifies its action under subsection (f).

(h) The department of local government finance is expressly directed to complete the duties assigned to it under this section not later than February 15th of each year for taxes to be collected during that year.

(i) Subject to the provisions of all applicable statutes, the department of local government finance may increase a political subdivision's tax levy to an amount that exceeds the amount originally fixed by the political subdivision if the increase: ~~is:~~

(1) **is** requested in writing by the officers of the political subdivision;

(2) ~~either:~~

~~(A)~~ based on information first obtained by the political subdivision after the public hearing under section 3 of this chapter; ~~or~~

~~(B)~~ results from an inadvertent mathematical error made in determining the levy; and

(3) **is** published by the political subdivision according to a notice provided by the department.

(j) The department of local government finance shall annually review the budget by fund of each school corporation not later than April 1. The department of local government finance shall give the school corporation written notification specifying any revision, reduction, or increase the department proposes in the school corporation's budget by fund. A public hearing is not required in connection with this review of the budget.

(k) The department of local government finance may hold a hearing under subsection (c) only if the notice required in section 12 of this chapter is published at least ten (10) days before the date of the hearing.

SECTION 11. IC 14-33-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) This section applies to districts:

(1) established after July 1, 1983; and

(2) containing all or part of a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

(b) Each year **before August 1** the board shall submit two (2) copies of the estimated budget formulated by the district for the next budget year to the fiscal body of the county described in subsection (a). ~~at least ten (10) days before the board holds the public hearing on the estimated budget under IC 6-1.1-17-3.~~

(c) The fiscal body:

(1) shall hold a public hearing on the budget; and

(2) may lower but may not increase any item in the estimated budget.

Notice of the hearing shall be published in accordance with IC 5-3-1, except that notice must be published at least five (5) days before the hearing date.

(d) **Each year before August 10** the county fiscal body shall deliver two (2) copies of the budget approved under subsection (c) to the board. ~~at least two (2) days before the date fixed for the public hearing on the budget held by the board under IC 6-1.1-17-3.~~ The board may not approve a total budget in excess of the amount approved by the county fiscal body.

SECTION 12. IC 20-29-2-17, AS ADDED BY P.L.1-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. "Submission date" means ~~the first date for the legal notice and publication of the budget of a school corporation under IC 6-1.1-17-3.~~ **August 1.**".

Page 19, between lines 1 and 2, begin a new paragraph and insert:

"SECTION 34. IC 36-2-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. Before the Thursday after the first Monday in August of each year, persons preparing budget estimates under this chapter shall present them to the county auditor, who shall file them in ~~his~~ **the county auditor's** office and make them available for inspection by county taxpayers. ~~The auditor shall also comply with the notice requirements of IC 6-1.1-17-3.~~

SECTION 35. IC 36-4-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. Before ~~the publication of notice of budget estimates required by IC 6-1.1-17-3,~~ **August 1,** each city shall formulate a budget estimate for the ensuing budget year in the following manner:

(1) Each department head shall prepare for his department an estimate of the amount of money required for the ensuing budget year, stating in detail each category and item of expenditure he anticipates.

(2) The city fiscal officer shall prepare an itemized estimate of revenues available for the ensuing budget year, and shall prepare an itemized estimate of expenditures for other purposes above the money proposed to be used by the departments.

(3) The city executive shall meet with the department heads and the fiscal officer to review and revise their various estimates.

(4) After the executive's review and revision, the fiscal officer shall prepare for the executive a report of the estimated department budgets, miscellaneous expenses, and revenues necessary or available to finance the estimates.

SECTION 36. IC 36-5-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. Before ~~the publication of notice of budget estimates required by IC 6-1.1-17-3,~~ **August 1,** each town shall formulate a budget estimate for the ensuing budget year in the following manner, unless it provides by ordinance for a different manner:

(1) Each department head shall prepare for his department an estimate of the amount of money required for the ensuing budget year, stating in detail each category and item of expenditure he anticipates.

(2) The town fiscal officer shall prepare an itemized estimate of revenues available for the ensuing budget year, and shall prepare an itemized estimate of expenditures for other purposes above the money proposed to be used by the departments.

(3) The town executive shall meet with the department heads and the fiscal officer to review and revise their various estimates.

(4) After the executive's review and revision, the fiscal officer shall prepare for the executive a report of the estimated department budgets, miscellaneous expenses, and revenues necessary or available to finance the estimates.

SECTION 37. IC 36-7-15.1-26.9, AS AMENDED BY P.L.224-2007, SECTION 122, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26.9. (a) The definitions set forth in section 26.5 of this chapter apply to this section.

(b) The fiscal officer of the consolidated city shall publish in the newspaper in the county with the largest circulation all determinations made under section 26.5 or 26.7 of this chapter that result in the allowance or disallowance of credits. The publication of a determination made under section 26.5 of this chapter shall be made not later than June 20 of the year in which the determination is made. The publication of a determination made under section 26.7 of this chapter shall be made not later than December 5 of the year in which the determination is made.

(c) If credits are granted under section 26.5(g) or 26.5(h) of this chapter, whether in whole or in part, property taxes on personal property (as defined in IC 6-1.1-1-11) that are equal to the aggregate amounts of the credits for all taxpayers in the allocation area under section 26.5(g) and 26.5(h) of this chapter shall be:

(1) allocated to the redevelopment district;

(2) paid into the special fund for that allocation area; and

(3) used for the purposes specified in section 26 of this chapter.

(d) The county auditor shall adjust the estimate of assessed valuation that the auditor certifies under IC 6-1.1-17-1 for all taxing units in which the allocation area is located. The county auditor may amend this adjustment ~~at any time~~ before ~~the earliest date a taxing unit must publish the unit's proposed property tax rate under IC 6-1.1-17-3~~ **August 1** in the year preceding the year in which the credits under section 26.5(g) or 26.5(h) of this chapter are paid. The auditor's adjustment to the assessed valuation shall be:

(1) calculated to produce an estimated assessed valuation that will offset the effect that paying personal property taxes into the allocation area special fund under subsection (c) would otherwise have on the ability of a taxing unit to achieve the taxing unit's tax levy in the following year; and

(2) used by the county board of tax adjustment (before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008), the department of local government finance, and each taxing unit in determining each taxing unit's tax rate and tax levy in the following year.

(e) The amount by which a taxing unit's levy is adjusted as a result of the county auditor's adjustment of assessed valuation under subsection (d), and the amount of the levy that is used to make direct payments to taxpayers under section 26.5(h) of this chapter, is not part of the total county tax levy under IC 6-1.1-21-2(g) and is not subject to IC 6-1.1-20.

(f) The ad valorem property tax levy limits imposed by IC 6-1.1-18.5-3 and IC 20-45-3 do not apply to ad valorem property taxes imposed that are used to offset the effect of paying personal property taxes into an allocation area special fund during the taxable year under subsection (d) or to make direct payments to taxpayers under section 26.5(h) of this chapter. For purposes of computing the ad valorem property tax levy limits imposed under IC 6-1.1-18.5-3 and IC 20-45-3, a taxing unit's ad valorem property tax levy for a particular calendar year does not include that part of the levy imposed to offset the effect of paying personal property taxes into an allocation area special fund under subsection (d) or to make direct payments to taxpayers under section 26.5(h) of this chapter.

(g) Property taxes on personal property that are deposited in the allocation area special fund:

(1) are subject to any pledge of allocated property tax proceeds made by the redevelopment district under section 26(d) of this chapter, including but not limited to any pledge made to owners of outstanding bonds of the redevelopment district of allocated taxes from that area; and

(2) may not be treated as property taxes used to pay interest or principal due on debt under IC 6-1.1-21-2(g)(1)(D).".

Page 19, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 38. IC 36-12-3-12, AS AMENDED BY P.L.219-2007, SECTION 148, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The library board shall determine the rate of taxation for the library district that is necessary for the proper operation of the library. The library board shall certify the rate to the county auditor. The county auditor shall certify the tax rate to the county tax adjustment board in the manner provided in IC 6-1.1. An additional rate may be levied under section 10(4) of this chapter.

(b) If the library board fails to:

(1) give:

(A) a first published notice to the board's taxpayers of the board's proposed budget and tax levy for the ensuing year ~~at least ten (10) days before the public hearing required under IC 6-1.1-17-3;~~ **before August 1;** and

(B) a second published notice to the board's taxpayers of the board's proposed budget and tax levy for the ensuing year ~~at least three (3) days before the public hearing required under IC 6-1.1-17-3;~~ **before August 10;** or

(2) finally adopt the budget and fix the tax levy not later than September 30;

the last preceding annual appropriation made for the public library is renewed for the ensuing year, and the last preceding annual tax levy is continued. Under this subsection, the treasurer of the library board shall report the continued tax levy to the county auditor not later than September 30.".

Page 19, after line 22, begin a new paragraph and insert:

"SECTION 40. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 312 as printed February 22, 2008.)

FRIEND

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 307

Representative Bardon called down Engrossed Senate Bill 307 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 307–2)

Mr. Speaker: I move that Engrossed Senate Bill 307 be amended to read as follows:

Page 27, delete lines 4 through 42, begin a new paragraph and insert:

"SECTION 50. IC 23-15-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) Except as otherwise provided in section 2 of this chapter:

(1) a person conducting or transacting business in Indiana under a name, designation, or title other than the real name of the person conducting or transacting such business;

(2) a corporation conducting business in Indiana under a name, designation, or title other than the name of the

corporation as shown by its articles of incorporation;

(3) a foreign corporation conducting business in Indiana under a name, designation, or title other than the name of the foreign corporation as shown by its application for certificate of authority to transact business in Indiana;

(4) a limited partnership conducting business in Indiana under a name, designation, or title other than the name of the limited partnership as shown by its certificate of limited partnership;

(5) a foreign limited partnership conducting business in Indiana under a name, designation, or title other than the name of the limited partnership as shown by its application for registration;

(6) a limited liability company conducting business in Indiana under a name, designation, or title other than as shown by its articles of organization;

(7) a foreign limited liability company conducting business in Indiana under a name, designation, or title other than the name of the limited liability company as shown by its application for registration;

(8) a limited liability partnership conducting business in Indiana under a name, designation, or title other than the name of the limited liability partnership as shown by its application for registration; and

(9) a foreign limited liability partnership conducting business in Indiana under a name, designation, or title other than the name of the limited liability partnership as shown by its application for registration;

shall file for record, in the office of the recorder of each county in which a place of business or an office of the person, limited partnership, foreign limited partnership, limited liability company, foreign limited liability company, corporation, or foreign corporation is situated, a certificate stating the assumed name or names to be used, and, in the case of a person, the full name and address of the person engaged in or transacting business, or, in the case of a corporation, foreign corporation, limited liability company, foreign limited liability company, limited partnership, or foreign limited partnership, the full name and the address of the corporation's, limited liability company's, or limited partnership's principal office in Indiana.

(b) The recorder shall keep a record of the certificates filed under this section and shall keep an index of the certificates showing, in alphabetical order, the names of the persons, the names of the partnerships, the names of the limited liability companies, the corporate names of the corporations having such certificates on file in the recorder's office, and the assumed name or names which they intend to use in carrying on their businesses as shown by the certificates.

(c) Before the dissolution of any business for which a certificate is on file with the recorder, the person, limited liability company, partnership, or corporation to which the certificate appertains shall file a notice of dissolution for record in the recorder's office.

(d) The county recorder shall charge a fee in accordance with IC 36-2-7-10 for each certificate, notice of dissolution, and notice of discontinuance of use filed with the recorder's office and recorded under this chapter. The funds received shall be receipted as county funds the same as other money received by the recorders.

(e) A corporation, limited liability company, or limited partnership subject to this chapter shall, in addition to filing the certificate provided for in subsection (a), file with the secretary of state a copy of each certificate.

(f) A person, partnership, limited liability company, or corporation that has filed a certificate of assumed business name or names under subsection (a) or (e) may file a notice of discontinuance of use of assumed business name or names with the secretary of state and with the recorder's office in which the certificate was filed or transferred. The secretary of state and the recorder shall keep a record of notices filed under this subsection.

(g) A corporation or limited partnership, domestic or foreign, that is subject to this chapter and that does not have a place of business or an office in Indiana, shall file the certificate required under subsection (a) in the office of the recorder of the county where the corporation's or limited partnership's registered office is located. The certificate must state the assumed name or names to be used, the name of the registered agent, and the address of the registered office. The corporation or limited partnership must comply with the requirements in subsection (e).

(h) The secretary of state shall collect the following fees when a copy of a certificate is filed with the secretary of state under subsection (e):

(1) A fee of:

(A) twenty dollars ($20) for an electronic filing; or

(B) thirty dollars ($30) **for a filing other than an electronic filing;**

from a corporation (other than a nonprofit corporation), limited liability company, or a limited partnership.

(2) A fee of:

(A) ten dollars ($10) for an electronic filing; or

(B) twenty-six dollars ($26) **for a filing other than an electronic filing;**

from a nonprofit corporation.

The secretary of state shall prescribe the electronic means of filing certificates for purposes of collecting fees under this subsection. A fee collected under this subsection is in addition to any other fee collected by the secretary of state.".

Delete page 28.

Page 29, delete lines 1 through 18.

Page 34, delete lines 40 through 42.

Page 35, delete lines 1 through 4.

Renumber all SECTIONS consecutively.

(Reference is to ESB 307 as printed February 15, 2008.)

T. HARRIS

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 307 be made a special order of business for 7:00 p.m.

BARDON

Motion prevailed.

Engrossed Senate Bill 302

Representative Welch called down Engrossed Senate Bill 302 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 302–7)

Mr. Speaker: I move that Engrossed Bill 302 be amended to read as follows:

Page 47, between lines 33 and 34, begin a new paragraph and insert:

"SECTION 56. IC 25-27-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. For the purposes of this chapter:

(1) "Physical therapy" means the evaluation of, administration of, or instruction in physical rehabilitative and habilitative techniques, and procedures to evaluate, prevent, correct, treat, alleviate, and limit physical disability, pathokinesiological function, bodily malfunction, pain from injury, disease, and any other physical disability, ~~or mental disorder,~~ including:

(A) the use of physical measures, agents, and devices for preventive and therapeutic purposes;

(B) neurodevelopmental procedures;

(C) the performance, interpretation, and evaluation of physical therapy tests and measurements; and

(D) the provision of consultative, educational, and other advisory services for the purpose of preventing or

reducing the incidence and severity of physical disability, bodily malfunction, and pain.

(2) "Physical therapist" means a person who practices physical therapy as defined in this chapter.

(3) "Physical therapist's assistant" means a person who assists in the practice of physical therapy as defined in this chapter.

(4) "Board" refers to the medical licensing board.

(5) "Committee" refers to the Indiana physical therapy committee established under section 4 of this chapter.

(6) "Person" means an individual.

(7) "Sharp debridement" means the removal of foreign material or dead tissue from or around a wound, without anesthesia and with generally no bleeding, through the use of:

(A) a sterile scalpel;

(B) scissors;

(C) forceps;

(D) tweezers; or

(E) other sharp medical instruments;

in order to expose healthy tissue, prevent infection, and promote healing.

SECTION 57. IC 25-27-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) Except as otherwise provided in this chapter, it is unlawful for a person to:

(1) practice physical therapy; ~~or to~~

(2) profess to be a physical therapist, physiotherapist, or physical therapy technician or to use the initials "P.T.", "P.T.T.", or "R.P.T.", or any other letters, words, abbreviations, or insignia indicating that the person is a physical therapist; or ~~to~~

(3) practice or ~~to~~ assume the duties incident to physical therapy;

without first obtaining from the board a license authorizing the person to practice physical therapy in this state.

(b) **Except as provided in section 2.5 of this chapter,** it is unlawful for a person to practice physical therapy other than upon the order or referral of a physician, podiatrist, psychologist, chiropractor, or dentist holding an unlimited license to practice medicine, podiatric medicine, psychology, chiropractic, or dentistry, respectively. It is unlawful for a physical therapist to use the services of a physical therapist's assistant except as provided under this chapter. For the purposes of this subsection, the function of:

(1) teaching;

(2) doing research;

(3) providing advisory services; or

(4) conducting seminars on physical therapy;

is not considered to be a practice of physical therapy.

(c) Except as otherwise provided in this chapter, it is unlawful for a person to act as a physical therapist's assistant or to use initials, letters, words, abbreviations, or insignia indicating that the person is a physical therapist's assistant without first obtaining from the board a certificate authorizing the person to act as a physical therapist's assistant. It is unlawful for the person to act as a physical therapist's assistant other than under the direct supervision of a licensed physical therapist who is in responsible charge of a patient or under the direct supervision of a physician. However, nothing in this chapter prohibits a person licensed or registered in this state under another law from engaging in the practice for which the person is licensed or registered. These exempted persons include persons engaged in the practice of osteopathy, chiropractic, or podiatric medicine.

(d) **Except as provided in section 2.5 of this chapter,** this chapter does not authorize a person who is licensed as a physical therapist or certified as a physical therapist's assistant to:

(1) evaluate any physical disability or mental disorder except upon the order or referral of a physician, podiatrist, psychologist, chiropractor, or dentist;

(2) practice medicine, surgery (as described in IC 25-22.5-1-1.1(a)(1)(C)), dentistry, optometry, osteopathy, psychology, chiropractic, or podiatric medicine; or

(3) prescribe a drug or other remedial substance used in medicine.

SECTION 58. IC 25-27-1-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.5. (a) A physical therapist may evaluate, but may not treat, an individual without a referral from a provider described in section 2(b) of this chapter. However, the physical therapist:**

(1) shall contact the individual's appropriate provider for a referral not later than three (3) business days after the physical therapist evaluates the individual; and

(2) shall obtain a referral from the individual's appropriate provider before providing treatment to the individual.

(b) Notwithstanding subsection (a), a physical therapist may provide treatment of a condition to an individual who was previously referred to the physical therapist for the same condition if the referral that authorized the previous treatment under section 2(b) of this chapter was given not more than three (3) months before the date the individual requests the later treatment from the physical therapist. However, the physical therapist shall consult with the individual's original referring provider not later than three (3) days after the physical therapist provides the later treatment to the individual under this subsection.

SECTION 59. IC 25-27-1-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 3.5. A physical therapist may not perform sharp debridement unless the physical therapist performing the sharp debridement is acting on the order of a physician licensed under:**

(1) IC 25-22.5; or

(2) IC 25-29.

SECTION 60. IC 25-27-1-3.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 3.7. A physical therapist may perform spinal manipulation or grade 1 through 5 mobilization if the physical therapist meets the following qualifications that have been approved by the medical licensing board:**

(1) Has graduated from:

(A) an entry level doctor of physical therapy program; or

(B) another physical therapy program if the physical therapist submits documentation that training on spinal manipulation and grades 1 through 5 mobilization techniques were part of the program's education curriculum.

(2) Holds:

(A) an orthopedic clinical specialist; or

(B) a sports clinical specialist;

certification from the American Board of Physical Therapy Specialities or its successor and provides documentation that spinal manipulation and grades 1 through 5 mobilization techniques were part of the curriculum.

(3) Completes a formal, credentialed manual therapy fellowship or residency program.

(4) Successfully completes post entry level education in spinal manipulation and grades 1 through 5 mobilization techniques.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 302 as printed February 22, 2008.)

FRIZZELL

Upon request of Representatives Frizzell and Bosma, the

Speaker ordered the roll of the House to be called. Representative Stemler was excused from voting, pursuant to House Rule 46. Roll Call 230: yeas 20, nays 73. Motion failed.

HOUSE MOTION
(Amendment 302–5)

Mr. Speaker: I move that Engrossed Senate Bill 302 be amended to read as follows:

Page 1, delete line 15.

Delete pages 2 through 7.

Page 8, delete lines 1 through 40.

Page 10, delete lines 9 through 10.

Page 11, delete lines 17 through 42.

Page 12, delete line 1.

Page 59, delete lines 37 through 42.

Page 60, delete lines 1 through 13.

Renumber all SECTIONS consecutively.

(Reference is to ESB 302 as printed February 22, 2008.)

LEONARD

Upon request of Representatives Leonard and Bosma, the Speaker ordered the roll of the House to be called. Roll Call 231: yeas 51, nays 42. Representative Stemler was excused from voting, pursuant to House Rule 46. Motion prevailed.

HOUSE MOTION
(Amendment 302–4)

Mr. Speaker: I move that Engrossed Senate Bill 302 be amended to read as follows:

Page 17, line 29, delete "TH E" and insert "THE".

Page 34, line 3, delete "who" and insert "**that**".

Page 49, between lines 33 and 34, begin a new paragraph and insert:

"SECTION 60. IC 25-30-1.3-6, AS ADDED BY P.L.185-2007, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) For purposes of this section, "industrial plant" means a factory, business, or concern that is engaged primarily in the manufacture or assembly of goods or the processing of raw materials, or both.

(b) This chapter does not apply to the following:

(1) A law enforcement officer of the United States, ~~a state,~~ **Indiana,** or a political subdivision of ~~a state to the extent that the officer is engaged in the performance of the officer's official duties.~~ **Indiana.**

(2) An employee to the extent that the employee is hired for the purpose of guarding and protecting the properties of railroad companies and is licensed as a railroad policeman under IC 8-3-17, to the extent that the employee is engaged in the performance of the employee's official duties.

(3) The owner of an industrial plant or the employee of an owner of an industrial plant to the extent that the owner or the employee is hiring a plant security guard for the owner's industrial plant.

(4) A retail merchant or an employee of the retail merchant to the extent that the retail merchant or the employee is hiring a security guard for the retail merchant's retail establishment.".

Page 51, line 37, strike "up".

Renumber all SECTIONS consecutively.

(Reference is to ESB 302 as printed February 22, 2008.)

BORROR

Motion prevailed. The bill was ordered engrossed.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 6:35 p.m. with the Speaker in the Chair.

On request of Representative Buck, the Speaker ordered the roll of the House to be called to determine the presence or absence of a quorum. Roll Call 232: 67 present. The Speaker declared a quorum present.

PROTEST

We hereby protest the actions of the House majority, as is our right under the Indiana Constitution, Article 4, Section 26, and to have such protest and its accompanying reasons for dissent entered into the House Journal.

When Senate Joint Resolution 1, Amendment 1, was put to a roll call vote on Tuesday, February 26, 2008 (Roll Call 227, attached hereto and incorporated herein by reference), Representative David Orentlicher was present and in his seat. However, he elected not to vote on the amendment. Amendment 1 to Senate Joint Resolution 1 returned the bill to its prior form, reinstating the constitutional cap for Hoosier homeowners at 1% of a home's assessed value. This amendment would have lent a sense of certainty where none exists under Senate Joint Resolution 1 in its current form.

House Rule 45 states, "Every member who is on the floor of the House when the question as put shall vote, unless excused by the House for special reasons." Representative Orentlicher was certainly present and was at his desk, but did not vote, in violation of this House Rule. Upon the declaration of a roll call by the Speaker, it was pointed out that Representative Orentlicher had not voted; however, the Speaker declared the roll call tallied and did not force Representative Orentlicher to vote.

Further, House Rule 48 states, "The refusal to vote by a member who is present and has not been excused from voting is a high breach of decorum and subjects the person so offending to a fine, censure or such other penalty as the House may order." This House Rule was also violated by Representative Orentlicher's refusal to vote.

We, as legislators, are regularly faced with difficult decisions. No more difficult decision will be faced by us this session than property tax issues. However, our constituents sent us here to lead. It is a sacred responsibility every member of this chamber takes seriously. Everyone, it seems, but Representative Orentlicher. He used this as an opportunity to avoid voting on a very important issue, an issue of critical importance to his district, in particular. This is an unfortunate, yet not unexpected, turn of events.

Respectfully submitted,
TORR

[*Journal Clerk's Note: Representative Orentlicher, pursuant to House Rule 75, filed a petition on February 26, 2008, to record his vote on the proposed amendment to Senate Joint Resolution 1.*

Numerous petitions to change votes were acted upon by the House on March 14, 2008, just prior to adjournment sine die; see page 1282 of the journal for March 14. The corrected roll call, reflecting adoption of the petition of Representative Orentlicher, is printed in the roll call section of the bound Journal.]

ENGROSSED SENATE BILLS ON SECOND READING

Engrossed Senate Bill 281

Representative L. Lawson called down Engrossed Senate Bill 281 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 258

Representative V. Smith called down Engrossed Senate Bill 258 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 258–1)

Mr. Speaker: I move that Engrossed Senate Bill 258 be amended to read as follows:

Page 3, after line 38, begin a new paragraph and insert:

"SECTION 4. [EFFECTIVE JULY 1, 2008] **(a) Notwithstanding P.L.291-2001, SECTION 228(b), this SECTION applies to a person if:**

(1) the person was found to be and sentenced as a habitual offender under IC 35-50-2-8;

(2) the felony offense for which the person was sentenced as a habitual offender under IC 35-50-2-8 was:

(A) an offense under IC 16-42-19 or IC 35-48-4; and

(B) not listed in IC 35-50-2-2(b)(4) (as in effect July 1, 2001); and

(3) at the time the person was sentenced as a habitual offender under IC 35-50-2-8, the total number of unrelated convictions the person had for:

(A) dealing in or selling a legend drug under IC 16-42-19-27;

(B) dealing in cocaine or a narcotic drug (IC 35-48-4-1);

(C) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2);

(D) dealing in a schedule IV controlled substance (IC 35-48-4-3); and

(E) dealing in a schedule V controlled substance (IC 35-48-4-4);

did not exceed one (1).

(b) A person described in subsection (a) may petition the sentencing court to have the person's sentence reviewed. Upon receipt of a petition submitted under this subsection, if the court finds that the person who submitted the petition is a person described in subsection (a), the court may vacate any additional fixed term of imprisonment added to the person's sentence under IC 35-50-2-8.

(c) If, under subsection (b), a court vacates an additional fixed term of imprisonment added to a person's sentence, the court shall order the department of correction to determine the person's new expected release date. If the department determines that the person's release date occurred before the date the court vacated the person's sentence under subsection (b), the department shall release the person.

(d) This SECTION does not create a cause of action against the state or an employee of the state. A person may not bring an action against the state or an employee of the state if the department of correction determines under subsection (c) that the person's release date occurred before the date the court vacated the person's sentence under subsection (b).".

(Reference is to ESB 258 as printed February 22, 2008.)

V. SMITH

Upon request of Representatives Bosma and Walorski, the Speaker ordered the roll of the House to be called. Roll Call 233: yeas 33, nays 57. Motion failed.

HOUSE MOTION
(Amendment 258–3)

Mr. Speaker: I move that Engrossed Senate Bill 258 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 11-10-12-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 6. (a) The department, during the ninety (90) days before a committed offender is:**

(1) released on parole;

(2) assigned to a community transition program; or

(3) discharged from the department;

shall allow the committed offender to have Internet access to use web sites that contain employment information.

(b) The department may adopt rules under IC 4-22-2 to approve Internet web sites that committed offenders may access under subsection (a).

(c) The department shall train at least one (1) employee at each correctional facility who shall:

(1) supervise offender Internet access for employment searches; and

(2) provide employment counseling.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 258 as printed February 22, 2008.)

TURNER

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 247

Representative C. Brown called down Engrossed Senate Bill 247 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 247–1)

Mr. Speaker: I move that Engrossed Senate Bill 247 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 12-15-11-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. **(a)** The office may seek competitive bids for the following items or services provided under Medicaid:

(1) Prescribed drugs and services for state operated institutions.

(2) Physical therapy and other therapeutic services.

(3) Prescribed laboratory and x-ray services.

(4) Eyeglasses and prosthetic devices.

(5) Medical equipment and supplies.

(6) Transportation services.

(b) Before the office may begin the competitive bid process for any of the items or services listed in subsection (a), the office must do the following:

(1) Communicate with representatives of companies and persons who are currently providing the items or services in the Medicaid program to determine if the companies and persons are capable of lowering the cost or increasing efficiency in providing items or services in the Medicaid program without competitive bidding.

(2) Analyze the potential loss of jobs and tax revenues if companies or persons who are located in Indiana and who currently provide items or services are not allowed to provide items or services because of a competitive bid contract being awarded to companies or persons domiciled outside Indiana.

If after meeting the requirements under this subsection the office decides to seek competitive bids, the office shall ensure that the competitive bidding procedure is open to all companies and persons who currently provide the items or services in the Medicaid program and provide a preference to companies and persons who have been domiciled in Indiana for the previous three (3) years.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 247 as printed February 22, 2008.)

WELCH

Motion failed.

Representative C. Brown withdrew the call of Engrossed

Senate Bill 247.

Engrossed Senate Bill 227

Representative L. Lawson called down Engrossed Senate Bill 227 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 227–1)

Mr. Speaker: I move that Engrossed Senate Bill 227 be amended to read as follows:

Page 1, line 10, after "1.5." insert "**(a)**".

Page 2, between lines 9 and 10, begin a new paragraph and insert:

"**(b) Except as provided subsections (c) and (d), in addition to information that is confidential under subsection (a), all information maintained by the commission concerning an individual who holds, held, or has applied for an occupational license under this article:**

(1) is confidential for purposes of IC 5-14-3; and

(2) may be released by the commission only for law enforcement purposes or to a state or local public agency.

(c) The following information concerning an individual who holds, held, or has applied for an occupational license under this article is not confidential:

(1) The individual's name.

(2) The individual's place of employment.

(3) The individual's job title.

(4) The individual's gaming experience.

(5) The reason for denial or revocation of a license or for disciplinary action against the individual.

(6) Information submitted by the individual for a felony waiver request under IC 4-33-8-11.

(d) An individual who holds, held, or has applied for an occupational license under this article may waive the confidentiality requirements of subsection (b).

SECTION 3. IC 4-35-10-3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3. (a) The following information submitted, collected, or gathered as part of an application to the commission for a license is confidential for purposes of IC 5-14-3-4:**

(1) Any information concerning a minor child of an applicant.

(2) The Social Security number of an applicant or the spouse of an applicant.

(3) The home telephone number of an applicant or the spouse of an applicant.

(4) An applicant's birth certificate.

(5) An applicant's driver's license number.

(6) The name or address of a previous spouse of the applicant.

(7) The date of birth of the spouse of an applicant.

(8) The place of birth of the spouse of an applicant.

(9) The personal financial records of an applicant or the spouse or minor child of an applicant.

(10) Any information concerning a victim of domestic violence or sexual assault.

(b) Except as provided subsections (c) and (d), in addition to information that is confidential under subsection (a), all information maintained by the commission concerning an individual who holds, held, or has applied for an occupational license under this article:

(1) is confidential for purposes of IC 5-14-3; and

(2) may be released by the commission only for law enforcement purposes or to a state or local public agency.

(c) The following information concerning an individual who holds, held, or has applied for an occupational license under this article is not confidential:

(1) The individual's name.

(2) The individual's place of employment.

(3) The individual's job title.

(4) The individual's gaming experience.

(5) The reason for denial or revocation of a license or for disciplinary action against the individual.

(6) Information submitted by the individual for a felony waiver request under IC 4-33-8-11.

(d) An individual who holds, held, or has applied for an occupational license under this article may waive the confidentiality requirements of subsection (b).".

Page 12, line 12, after "domestic" insert "**or family**".

Page 12, line 12, delete "assault, or" and insert "**assault (as defined in IC 5-26.5-1-8), stalking (IC 35-45-10-5), human and sexual trafficking (IC 35-42-3.5), or a violent crime (as defined in IC 5-2-6.1-8).**".

Page 12, delete line 13.

Renumber all SECTIONS consecutively.

(Reference is to ESB 227 as printed February 22, 2008.)

L. LAWSON

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 226

Representative Welch called down Engrossed Senate Bill 226 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 226–4)

Mr. Speaker: I move that Engrossed Bill 226 be amended to read as follows:

Page 2, delete lines 5 through 42, begin a new paragraph and insert:

"SECTION 2. IC 8-1.5-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Each appraiser appointed as provided by section 4 of this chapter must:

(1) by education and experience, have such expert and technical knowledge and qualifications as to make a proper appraisal and valuation of the property of the type and nature involved in the sale;

(2) be a disinterested person; and

(3) not be a resident or taxpayer of the municipality.

(b) The appraisers shall:

(1) be sworn to make a just and true valuation of the property; and

(2) return their appraisal, in writing, to the municipal legislative body within the time fixed by the **ordinance or** resolution appointing them.

(c) If all three (3) appraisers cannot agree as to the appraised value, the appraisal, when signed by two (2) of the appraisers, constitutes a good and valid appraisal.

(d) ~~Not later than fifteen (15) days~~ **If,** after the return of the appraisal by the appraisers to the legislative body, the **legislative body decides to proceed with the sale or disposition of the nonsurplus municipally owned utility property, the legislative body shall, not later than forty-five (45) days after the return of the appraisal, hold a public hearing to do the following:**

(1) Review and explain the appraisal.

(2) Receive public comment on the proposed sale or disposition of the nonsurplus municipally owned utility property.

(3) Adopt an ordinance providing for the sale or disposition of the nonsurplus municipally owned utility property. The legislative body is not required to adopt an ordinance under this subdivision if, after the hearing, the legislative body determines it is not in the interest of the municipality to proceed with the sale or disposition.

Notice of ~~a~~ **the** hearing ~~on an ordinance providing for sale or disposition of the property and the total valuation of the property as fixed by the appraisement~~ shall be published in the manner prescribed by IC 5-3-1.

(e) The hearing on the ordinance providing for sale or disposition may not be held for thirty (30) days after notice is given as required by subsection (d).

(f) If:

(1) the legislative body adopts an ordinance under subsection (d)(3); and

(2) within ~~this~~ **the** thirty (30) day period **described in subsection (e),** at least the number of the registered voters of the municipality required under IC 3-8-6-3 for a petition to place a candidate on the ballot sign and present a petition to the legislative body opposing the sale **or disposition;**

the legislative body shall submit the question as to whether the sale **or disposition** shall be made to the voters of the municipality at a special or general election. In submitting the public question to the voters, the legislative body shall certify the question to the county election board of the county containing the greatest percentage of population of the municipality under IC 3-10-9-3. The county election board shall adopt a resolution setting forth the text of the public question and shall submit the question as to whether the sale **or disposition** shall be made to the voters of the municipality at a special or general election on a date specified by the municipal legislative body. **Pending the results of an election under this subsection, the municipality may not take further action to sell or dispose of the property as provided in the ordinance.**

(g) If a majority of the voters voting on the question vote for the sale **or disposition,** the legislative body shall proceed to sell the property as provided in the ordinance.

(h) If a majority of the voters voting on the question vote against the sale **or disposition,** the sale may not be made.

(i) If:

(1) the legislative body adopts an ordinance under subsection (d)(3); and

(2) after the expiration of thirty (30) days as provided in subsection (e), a petition is not filed;

the municipal legislative body ~~shall~~ **may** proceed to sell the property as provided in the ordinance.".

Page 3, delete lines 1 through 19.

Renumber all SECTIONS consecutively.

(Reference is to ESB 226 as printed February 22, 2008.)

WELCH

Motion prevailed.

HOUSE MOTION
(Amendment 226–1)

Mr. Speaker: I move that Engrossed Senate Bill 226 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 8-1-2-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.2. (a) As used in this section, "landlord" refers to a landlord or a person acting on a landlord's behalf.**

(b) A landlord that distributes water or sewage disposal service from a public utility or a municipally owned utility to one (1) or more dwelling units is not a public utility solely by reason of engaging in this activity if the landlord complies with all of the following:

(1) The landlord bills tenants, separately from rent, for:

(A) the water or sewage disposal service distributed; and

(B) any costs permitted by subsection (c).

(2) The total charge for the services described in subdivision (b)(1)(A) is not more than what the landlord paid the utility for the same services, less the landlord's own use.

(3) The landlord makes a disclosure to the tenant that satisfies subsection (d). A disclosure required by this subdivision must be in:

(A) the lease;

(B) the tenant's first bill; or

(C) a writing separate from the lease signed by the tenant before entering into the lease.

(c) A landlord may charge only the following costs under subsection (b)(1)(B):

(1) A reasonable initial set-up fee.

(2) A reasonable administrative fee that may not exceed four dollars ($4) per month.

(3) A reasonable fee for the return for insufficient funds of an instrument in payment of charges.

(d) A disclosure required by subsection (b)(3) must:

(1) be printed using a font that is not smaller than the largest font used in the lease; and

(2) include the following:

(A) A description of the water or sewage disposal services to be provided.

(B) An itemized statement of the fees that will be charged as permitted under subsection (c).

(C) The following statement: "If you believe you are being charged in violation of this disclosure or if you believe you are being billed in excess of the utility services provided to you as described in this disclosure, you have a right under Indiana law to file a complaint with the Indiana Utility Regulatory Commission. You may contact the Commission at (insert phone number for the tenant to contact the Commission).".

(e) If a complaint is filed under section 34.5 or 54 of this chapter alleging that a landlord may be acting as a public utility in violation of this section, the commission shall:

(1) consider the issue; and

(2) if the commission considers necessary, enter an order requiring that billing be adjusted to comply with this section.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 226 as printed February 22, 2008.)

CROOKS

Motion prevailed.

HOUSE MOTION
(Amendment 226–3)

Mr. Speaker: I move that Engrossed Senate Bill 226 be amended to read as follows:

Page 4, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 4. IC 8-1.5-2-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) A municipality may not issue bonds, notes, or other obligations under this chapter without the approval of the commission **if the bond, notes, or other obligations are payable more than twelve (12) months after their execution,** except as authorized by IC 8-1-2.2-11.

(b) If the evidence presented to the commission establishes that the rates and charges proposed by the municipally owned utility will provide sufficient funds for the operation, maintenance, and depreciation of the utility, and to pay the principal and interest of the proposed bond issue, together with a surplus or margin of at least ten percent (10%) in excess, the commission shall so certify in its order approving the issuance of bonds.

SECTION 5. IC 8-1.5-2-19.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19.5. If a municipality desires to purchase and install equipment for its

utility which requires more than three (3) months lead time for the supplier to make such equipment and installation available, the legislative body may, by ordinance, approve a contract therefor even though it does not have sufficient funds appropriated or on hand to pay for such purchase if the utility:

(1) has annual net operating revenues for the immediately preceding calendar year sufficient to permit the municipality:

(A) to pay the principal of and interest on an issue of its utility revenue bonds in the principal amount necessary to fund such purchase (including engineering costs, legal costs, and costs of bond issuance associated therewith); and

(B) a margin of safety which it deems necessary to market such bonds on acceptable terms;

(2) **if required by section 19 of this chapter,** has received approval from the commission to issue bonds, notes, or other obligations sufficient to fund such purchase; or

(3) has received approval from the commission to raise its rates and charges in an amount sufficient to permit the issuance of said bonds.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 226 as printed February 22, 2008.)

WELCH

Representative Foley rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was not well taken.

The question was on the motion of Representative Welch (226–3). Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 223

Representative Stilwell called down Engrossed Senate Bill 223 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 215

Representative Pierce called down Engrossed Senate Bill 215 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 215–4)

Mr. Speaker: I move that Engrossed Bill 215 be amended to read as follows:

Page 60, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 85. IC 5-1-19 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 19. Public Approval of Public Debt

Sec. 1. (a) This chapter applies only if both of the following apply:

(1) The principal amount of the debt is at least twenty-five million dollars ($25,000,000).

(2) The debt is to be issued or entered into after June 30, 2011.

(b) This chapter does not apply to debt issued or entered into that:

(1) is in response to:

(A) a natural disaster;

(B) an accident; or

(C) an emergency;

that makes a building or facility unavailable for its intended use; and

(2) is approved by the budget agency.

Sec. 2. As used in this chapter, "debt" refers to:

(1) bonds;

(2) a lease with an option to purchase;

(3) a lease rental agreement; or

(4) any other debt instrument;

entered into or issued by a state entity if any of the principal or interest is to be repaid by funds appropriated by the general assembly.

Sec. 3. (a) As used in this chapter, "state entity" refers to any of the following:

(1) A state educational institution (as defined in IC 21-7-13-32).

(2) A separate body corporate and politic established by law that has authority to issue or enter into debt.

(3) Any other body established by law that has authority to issue or enter into debt.

(b) The term does not include a political subdivision.

Sec. 4. As used in this chapter, "declaration of intention to issue debt" refers to the statement that a state entity is required to file under section 5 of this chapter.

Sec. 5. (a) Before a state entity issues or enters into debt, the state entity must file a declaration of intention to issue debt with the secretary of state.

(b) A declaration of intention to issue debt must include the following information:

(1) The name of the state entity.

(2) The amount of the principal of the debt to be issued or entered into.

(3) The anticipated amount of interest or other financing cost to be incurred over the term of the debt instrument.

(4) The term of the debt instrument.

(5) The purposes for which the debt is to be issued or entered into.

(6) A summary of the legal procedures required by law (other than this chapter) for entering into the debt.

(7) A statement that all legal procedures described under subdivision (6) have been completed.

(c) A declaration of intention to issue debt must be signed by an officer of the state entity authorized by the state entity to file the statement.

Sec. 6. If the secretary of state receives a declaration of intention to issue debt before August 1 of a year in which a general election is held, the election division shall certify the following public question to the county election board of each county not later than August 20 before the general election:

"Shall (insert the name of the state entity) be authorized to issue debt in the amount of (insert the principal amount of the proposed debt) for the purpose of (insert the purpose of the debt)?".

Sec. 7. IC 3, except where inconsistent with this chapter, applies to a public question placed on the ballot under this chapter.

Sec. 8. If a majority of the voters of the state who vote on the public question vote in favor of a public question placed on the ballot under this chapter, the state entity may issue or enter into the debt for the purposes described in the declaration of intention to issue debt filed under section 5 of this chapter.

Sec. 9. If a majority of the voters of the state who vote on the public question vote in opposition to a public question placed on the ballot under this chapter, the state entity may not issue or enter into debt for any purpose described in the statement of intention to issue debt filed under section 5 of this chapter until issuance of debt for that purpose is authorized as provided in this chapter.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 215 as printed February 22, 2008.)

CROUCH

Motion failed.

HOUSE MOTION
(Amendment 215–2)

Mr. Speaker: I move that Engrossed Senate Bill 215 be

amended to read as follows:

Page 58, between lines 37 and 38, begin a new paragraph and insert:

"SECTION 79. IC 3-12-6-16, AS AMENDED BY P.L.221-2005, SECTION 115, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) A recount commission consists of three (3) persons.

(b) Two (2) members of the commission must be voters who:

(1) are members of different major political parties of the state; and

(2) were qualified to vote at the election in a county in which the election district for the office is located.

(c) ~~This subsection applies to a recount commission conducting a recount of an election in which only paper ballots were used.~~ The third member of the commission must be a person who:

(1) is a member of a major political party of the state; and

(2) was qualified to vote at the election in a county in which the election district for the office is located.

(d) This subsection applies to a recount of an election in which a voting method other than only paper ballots was used. ~~The third member of the commission must be~~ A competent mechanic who is familiar with the ballot card voting systems or electronic voting systems used in that election **shall be appointed to advise the commission on technical questions relating to the voting systems used in the election. The mechanic is not a voting member of the commission.** The mechanic is not required to be qualified to vote at the election in a county in which the election district for the office is located.

SECTION 80. IC 3-12-12-11, AS AMENDED BY P.L.221-2005, SECTION 131, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) A recount commission consists of three (3) persons.

(b) Two (2) members of the commission must be voters who:

(1) are members of different major political parties of the state; and

(2) were qualified to vote at the election in a county in which the election district that voted on the public question is located.

(c) ~~This subsection applies to a recount commission conducting a recount of an election in which only paper ballots were used.~~ The third member of the commission must be a person who:

(1) is a member of a major political party of the state; and

(2) was qualified to vote at the election in a county in which the election district that voted on the public question is located.

(d) This subsection applies to a recount of an election in which a voting method other than only paper ballots was used. ~~The third member of the commission must be~~ A competent mechanic who is familiar with the ballot card voting systems or electronic voting systems used in that election **shall be appointed to advise the commission on technical questions relating to the voting systems used in the election. The mechanic is not a voting member of the commission.** The mechanic is not required to be qualified to vote at the election in a county in which the election district that voted on the public question is located.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 215 as printed February 22, 2008.)

PIERCE

Motion prevailed.

HOUSE MOTION
(Amendment 215–1)

Mr. Speaker: I move that Engrossed Senate Bill 215 be amended to read as follows:

Page 5, between lines 37 and 38, begin a new paragraph and insert:

"SECTION 10. IC 3-7-13-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 10. (a) The registration period begins December 1 of each year (or the first Monday in December if December 1 falls on a Saturday or Sunday).

(b) The registration period continues through the twenty-ninth day before the date a primary election is scheduled under this title.

(c) The registration period resumes fourteen (14) days after primary election day and continues through the twenty-ninth day before the date a general or municipal election is scheduled under this article.

(d) This subsection applies in each precinct in which a special election is to be conducted. The registration period ceases in that precinct on the twenty-ninth day before a special election is conducted and resumes fourteen (14) days after the special election occurs.

(e) Notwithstanding subsections (b) through (d), a person may register or transfer registration on the day of a primary, general, municipal, school district, or special election as provided in IC 3-7-49.

SECTION 11. IC 3-7-13-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 11. A person desiring to register or transfer a registration may do so:

(1) at the office of the circuit court clerk or board of registration through the close of business on the twenty-ninth day before the election is scheduled to occur; **or**

(2) on the day of a primary, general, municipal, school district, or special election as provided in IC 3-7-49 or IC 3-10-11.".

Page 10, between lines 36 and 37, begin a new paragraph and insert:

"SECTION 21. IC 3-7-36-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 11. (a) This section applies only to a person described in subsection (b) who applies to register to vote:

(1) after the date described in ~~IC 3-7-13-11,~~ **IC 3-7-13-11(1);** and

(2) before the date that the certified list of voters is prepared under IC 3-7-29-1.

(b) An absent uniformed services voter who is absent from Indiana during the registration period described in ~~IC 3-7-13-10~~ **IC 3-7-13-10(a) through IC 3-7-13-10(d)** and who otherwise would be entitled to register to vote under Indiana law may, upon returning to Indiana during the period described in subsection (a) following discharge from service or reassignment, register to vote by doing the following:

(1) Showing either of the following to the circuit court clerk or board of registration:

(A) A discharge from service, dated not earlier than the beginning of the registration period that ended on the date described in ~~IC 3-7-13-11,~~ **IC 3-7-13-11(1),** of:

(i) the voter;

(ii) the voter's spouse; or

(iii) the individual of whom the voter is a dependent.

(B) A copy of the government movement orders, with a reporting date not earlier than the beginning of the registration period that ended on the date described in ~~IC 3-7-13-11,~~ **IC 3-7-13-11(1),** of:

(i) the voter;

(ii) the voter's spouse; or

(iii) the individual of whom the voter is a dependent.

(2) Completing a registration affidavit.

(c) A voter who registers under this section may vote at the upcoming election as provided in this title.

SECTION 22. IC 3-7-36-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 14. (a) This section applies to a person described in subsection (b) who applies to register to vote during the period:

(1) beginning on the date that the certified list of voters is prepared under IC 3-7-29-1; and

(2) ending at noon election day.

(b) An absent uniformed services voter who is absent from Indiana during the registration period described in ~~IC 3-7-13-10~~ **IC 3-7-13-10(a) through IC 3-7-13-10(d)** and who otherwise would be entitled to register to vote under Indiana law may, upon returning to Indiana during the period described in subsection (a) following discharge from service or reassignment, register to vote by doing the following:

(1) Showing either of the following to the county voter registration office:

(A) A discharge from service, dated not earlier than the beginning of the registration period that ended on the date described in ~~IC 3-7-13-11,~~ **IC 3-7-13-11(1),** of:

(i) the voter;

(ii) the voter's spouse; or

(iii) the individual of whom the voter is a dependent.

(B) A copy of the government movement orders, with a reporting date not earlier than the beginning of the registration period that ended on the date described in ~~IC 3-7-13-11,~~ **IC 3-7-13-11(1),** of:

(i) the voter;

(ii) the voter's spouse; or

(iii) the individual of whom the voter is a dependent.

(2) Completing a registration affidavit.

(c) **Except as provided in subsection (g),** a voter who registers under this section may vote at the upcoming election only by absentee ballot at the office of the circuit court clerk at the time the voter registers under this section or at any time after the voter registers under this section and before noon on election day. A voter who wants to vote under this subsection must do both of the following:

(1) Complete an application for an absentee ballot.

(2) Sign an affidavit that the voter has not voted at any other precinct in the election.

The voter may vote at subsequent elections as otherwise provided in this title.

(d) If the voter votes by absentee ballot under this section, the circuit court clerk shall do the following:

(1) Certify in writing that the voter registered under this section.

(2) Attach the certification to the voter's absentee ballot envelope.

(e) If the county has a board of registration, the board of registration shall promptly deliver the voter's registration affidavit to the circuit court clerk to permit the voter to vote under subsection (c).

(f) If the voter chooses not to vote under subsection (c), the county voter registration office shall register the voter on the first day of the next registration period.

(g) A person described in subsection (b) may register and vote on the day of a primary, general, municipal, school district, or special election as provided in IC 3-7-49.".

Page 11, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 25. IC 3-7-48-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. (a) Except as otherwise provided by NVRA or in this chapter, a person whose name does not appear on the registration record may not vote, unless:

(1) the circuit court clerk or board of registration provides a signed certificate of error in the office where the permanent registration record is kept showing that the voter is legally registered in the precinct where the voter resides; **or**

(2) the voter has registered as provided in IC 3-7-49.

(b) A person:

(1) whose name does not appear on the registration record; **and**

(2) who does not register as provided in IC 3-7-49;

may cast a provisional ballot as provided in IC 3-11.7.

SECTION 26. IC 3-7-49 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]:

Chapter 49. Election Day Registration

Sec. 1. (a) A person who is not registered to vote but is otherwise qualified to vote shall be allowed to vote at the polls in a primary, general, municipal, school district, or special election if the person registers at the polls under this chapter.

(b) In order to register to vote at a precinct under this chapter, a person:

(1) must be a resident of the precinct;

(2) must be otherwise legally qualified to vote under IC 3-7-13-1;

(3) may not be registered to vote under IC 3-7-14 through IC 3-7-23;

(4) may not be qualified to vote under IC 3-7-39-7, IC 3-7-39-8, IC 3-7-48, IC 3-10-10, IC 3-10-11, or IC 3-10-12; and

(5) may not have already voted in the election.

(c) Before allowing a person to vote under this chapter, the poll clerk or other precinct election officer shall require the person to do the following:

(1) Complete a voter registration form prescribed by IC 3-7-18, along with the affirmation described in section 3 of this chapter, and sign the form in the presence of two (2) precinct election officers who must be from different political parties. If the county election board has not appointed precinct election officers from more than one (1) political party to the precinct election board, the inspector for the precinct shall sign the form as the second precinct election officer.

(2) Provide acceptable proof of residence.

Sec. 2. (a) For purposes of this chapter, one (1) of the following forms of identification is acceptable as proof of residence:

(1) A current and valid photo identification.

(2) A current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the person registering to vote.

(3) A statement signed by any other voter in the precinct that corroborates the information on the voter's registration form concerning the residency of the person registering to vote. The corroborator must provide the identification listed in subdivision (1) or (2) as proof of the corroborator's residence and must sign the statement in the presence of two (2) precinct election officers who must be from different political parties. If the county election board has not appointed precinct election officers from more than one (1) political party to the precinct election board, the inspector for the precinct shall sign the form as the second precinct election officer. The commission shall prescribe the form of the statement.

(b) If a person presents a document under subsection (a), the poll clerk shall add a notation to the poll list indicating the type of document presented by the person. The election division shall prescribe a standardized coding system to classify documents presented under this subsection for entry into the county voter registration system.

(c) If a person is unable to present the documentation required under subsection (a) to the poll clerk while present in the polls, the poll clerk shall notify the precinct election board. The board shall provide a provisional ballot to the person under IC 3-11.7-2.

(d) The precinct election board shall advise the person that the person may file a copy of the documentation with:

(1) the county voter registration office; or

(2) the precinct election board in the voter's precinct;

to permit the provisional ballot to be counted under IC 3-11.7.

Sec. 3. The commission shall prescribe the affirmation required by section 1(c)(1) of this chapter. The affirmation must include a statement that the person has not already voted at the election for which the person is registering to vote.

Sec. 4. A person who registers to vote under this chapter:

(1) may not be challenged on the grounds that the person's registration does not appear in the precinct registration book or poll list; and

(2) is not required to obtain a certificate of error under IC 3-7-48 to vote.

Sec. 5. Before each primary, general, municipal, school district, or special election, the county election board shall provide each precinct election board with a sufficient number of registration forms, affirmations, and statements to meet the reasonable need for the forms under this chapter.

Sec. 6. The precinct election board shall attach the completed registration forms, affirmations, and statements to the poll list for processing by the county voter registration office under IC 3-10-1-31.1.

Sec. 7. (a) The precinct election board shall add the name and address of a person who registers to vote under this chapter to the poll list of the precinct.

(b) The county voter registration office shall add the name of a person who registers to vote under this chapter to the registration record of the county.

Sec. 8. The county voter registration office shall process under IC 3-7-33-5 the voter registration forms completed under section 1 of this chapter.

Sec. 9. If a notice mailed under IC 3-7-33-5 to a person who registered under this chapter is returned as undeliverable, the county voter registration office shall initiate steps under IC 3-7-33-6 to remove the person from the registration rolls.

Sec. 10. A registration completed under this chapter for which the notice mailed under IC 3-7-33-5 is not returned is effective to the same extent as if the registration had been completed under IC 3-7-14 through IC 3-7-23.

Sec. 11. This chapter expires January 1, 2015.".

Page 21, between lines 29 and 30, begin a new paragraph and insert:

"SECTION 36. IC 3-10-1-31.1, AS AMENDED BY P.L.230-2005, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 31.1. (a) This section applies only to election materials for elections held after December 31, 2003.

(b) The inspector of each precinct shall deliver the bags required by section 30(a) and 30(c) of this chapter in good condition, together with poll lists, tally sheets, and other forms, to the circuit court clerk when making returns.

(c) Except for unused ballots disposed of under IC 3-11-3-31 or affidavits received by the county election board under IC 3-14-5-2 for delivery to the foreman of a grand jury, the circuit court clerk shall seal the ballots and other material during the time allowed to file a verified petition or cross-petition for a recount of votes or to contest the election. Except as provided in subsection (d), after the recount or contest filing period, the election material (except for ballots, which remain confidential) shall be made available for copying and inspection under IC 5-14-3. The circuit court clerk shall carefully preserve the sealed ballots and other material for twenty-two (22) months, as required by 42 U.S.C. 1974, after which the sealed ballots and other material are subject to IC 5-15-6 unless an order issued under:

(1) IC 3-12-6-19 or IC 3-12-11-16; or

(2) 42 U.S.C. 1973;

requires the continued preservation of the ballots or other material.

(d) If a petition for a recount or contest is filed, the material for that election remains confidential until completion of the recount or contest.

(e) Upon delivery of the poll lists, the county voter registration office may unseal the envelopes containing the poll lists. For the purposes of:

(1) a cancellation of registration conducted under IC 3-7-43 through IC 3-7-46;

(2) a transfer of registration conducted under IC 3-7-39, IC 3-7-40, or IC 3-7-42;

(3) a change of name made under IC 3-7-41;

(4) adding the registration of a voter under IC 3-7-48-8 **or IC 3-7-49;** or

(5) recording that a voter subject to IC 3-7-33-4.5 submitted the documentation required under 42 U.S.C. 15483 and IC 3-11-8 or IC 3-11-10;

the county voter registration office may inspect the poll lists and update the registration record of the county. The county voter registration office shall use the poll lists to update the registration record to include the voter's voter identification number if the voter's voter identification number is not already included in the registration record. Upon completion of the inspection, the poll list shall be preserved with the ballots and other materials in the manner prescribed by subsection (c) for the period prescribed by subsections (c) and (d).

(f) This subsection does not apply to ballots. Notwithstanding subsection (c), if a county voter registration office determines that the inspection and copying of precinct election material would reveal the political parties, candidates, and public questions for which an individual cast an absentee ballot, the county voter registration office shall keep confidential only that part of the election material necessary to protect the secrecy of the voter's ballot.

(g) After the expiration of the period described in subsection (c) or (d), the ballots may be destroyed in the manner provided by IC 3-11-3-31 or transferred to a state educational institution as provided by IC 3-12-2-12.".

Page 22, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 39. IC 3-10-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 9. (a) If the special election occurs during the period when registration is open under IC 3-7-13, the registration period continues through the twenty-ninth day before the special election occurs and resumes on the date specified by IC 3-7-13-10(d), **except that a person may register or transfer registration on the day of a special election as provided in IC 3-7-49.**

(b) The election board conducting the special election shall provide poll lists for use at the precincts that include the names of voters in the precinct who:

(1) have registered through the twenty-ninth day before the special election is to be conducted; or

(2) are absent uniformed services voters or overseas voters registered under IC 3-7-36.

(c) This subsection applies when a special election is ordered by a court under IC 3-12-8-17 or the state recount commission under IC 3-12-11-18. A candidate may not be placed on the special election ballot unless the candidate was on the ballot or was a declared write-in candidate for the office at the general election preceding the special election.

(d) The restrictions on the sale of alcoholic beverages set forth in IC 7.1-5-10-1 apply in each precinct in which the special election is conducted.".

Page 30, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 51. IC 3-11-8-15, AS AMENDED BY P.L.230-2005, SECTION 54, IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 15. (a) Only the following persons are permitted in the polls during an election:

(1) Members of a precinct election board.
(2) Poll clerks and assistant poll clerks.
(3) Election sheriffs.
(4) Deputy election commissioners.
(5) Pollbook holders and challengers.
(6) Watchers.
(7) Voters for the purposes of:
(A) voting; **or**
(B) for voters registering to vote on election day under IC 3-7-49, filing a copy of the documentation required by IC 3-7-49-2(a) with the precinct election board in the voter's precinct so that the voter's provisional ballot may be counted under IC 3-11.7.
(8) Minor children accompanying voters as provided under IC 3-11-11-8.
(9) An assistant to a precinct election officer appointed under IC 3-6-6-39.
(10) An individual authorized to assist a voter in accordance with IC 3-11-9.
(11) A member of a county election board, acting on behalf of the board.
(12) A mechanic authorized to act on behalf of a county election board to repair a voting system (if the mechanic bears credentials signed by each member of the board).
(13) Either of the following who have been issued credentials signed by the members of the county election board:
(A) The county chairman of a political party.
(B) The county vice chairman of a political party.
(14) The secretary of state, as chief election officer of the state, unless the individual serving as secretary of state is a candidate for nomination or election to an office at the election.

(b) This subsection applies to a simulated election for minors conducted with the authorization of the county election board. An individual participating in the simulated election may be in the polls for the purpose of voting. A person supervising the simulated election may be in the polls to perform the supervision.

(c) The inspector of a precinct has authority over all simulated election activities conducted under subsection (b) and shall ensure that the simulated election activities do not interfere with the election conducted in that polling place.

SECTION 52. IC 3-11-8-16, AS AMENDED BY P.L.230-2005, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 16. A person may not remain within a distance equal to the length of the chute (as defined in IC 3-5-2-10) of the entrance to the polls except for the purpose of:

(1) offering to vote; **or**
(2) for voters registering to vote on election day under IC 3-7-49, filing a copy of the documentation required by IC 3-7-49-2(a) with the precinct election board in the voter's precinct so that the voter's provisional ballot may be counted under IC 3-11.7.".

Page 31, line 4, strike "the voter's name".

Page 31, line 5, delete ". A" and insert "**the voter's name and whether the voter wants to register to vote at the polls. If the voter wants to register and meets the conditions set forth in IC 3-7-49, the poll clerk or other precinct election officer shall register the voter in accordance with IC 3-7-49. If the voter is already registered,** a".

Page 31, between lines 40 and 41, begin a new paragraph and insert:

"SECTION 54. IC 3-11-8-25.5, AS AMENDED BY P.L.164-2006, SECTION 102, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 25.5. **(a)** If an individual signs the individual's name and either:

(1) signs the individual's address; or
(2) checks the "Address Unchanged" box;

on the poll list under section 25.1 of this chapter and then leaves the polls without casting a ballot or after casting a provisional ballot, the voter may not be permitted to reenter the polls, ~~to cast a ballot at the election.~~ **except as provided by subsection (b).**

(b) An individual who:
(1) registers to vote on election day under IC 3-7-49; and
(2) casts a provisional ballot under IC 3-11.7 because the individual is unable to present the documentation required under IC 3-7-49-2(a);

is entitled to reenter the polls solely to file a copy of the documentation required by IC 3-7-49-2(a) with the precinct election board in the individual's precinct so that the individual's provisional ballot may be counted under IC 3-11.7.".

Page 49, between lines 38 and 39, begin a new line block indented and insert:

"**(5) An individual who is registering to vote at the polls but has not presented identification required under IC 3-7-49-2.**".

Page 49, line 42, strike "or".

Page 50, line 3, after "cast;" insert "**or**
(3) presented identification required under IC 3-7-49-2 to the poll clerk before voting in person under IC 3-11-8-25.1;".

Renumber all SECTIONS consecutively.

(Reference is to ESB 215 as printed February 22, 2008.)

DAY

Motion failed. The bill was ordered engrossed.

Engrossed Senate Bill 208

Representative E. Harris called down Engrossed Senate Bill 208 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 208–2)

Mr. Speaker: I move that Engrossed Senate Bill 208 be amended to read as follows:

Page 2, line 3, delete "The" and insert "**After June 30, 2009, the**".

Page 7, line 22, after "(d)" insert "**This subsection applies after June 30, 2009.**".

(Reference is to ESB 208 as printed February 15, 2008.)

SAUNDERS

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 200

Representative Dvorak called down Engrossed Senate Bill 200 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 200–2)

Mr. Speaker: I move that Engrossed Senate Bill 200 be amended to read as follows:

Page 2, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 4. IC 13-11-2-8, AS AMENDED BY P.L.154-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 8. **(a) "Applicant", for purposes of IC 13-18-10, refers to a person (as defined in section 158(b) of this chapter) that submits an application to the department under IC 13-18-10-2.**

~~(a)~~ **(b)** "Applicant", for purposes of IC 13-19-4, means an individual, a corporation, a limited liability company, a partnership, or a business association that:

(1) receives, for commercial purposes, solid or hazardous

waste generated offsite for storage, treatment, processing, or disposal; and

(2) applies for the issuance, transfer, or major modification of a permit described in IC 13-15-1-3 other than a postclosure permit or an emergency permit.

For purposes of this subsection, an application for the issuance of a permit does not include an application for renewal of a permit.

~~(b)~~ **(c)** "Applicant", for purposes of IC 13-20-2, means an individual, a corporation, a limited liability company, a partnership, or a business association that applies for an original permit for the construction or operation of a landfill.

~~(c)~~ **(d)** For purposes of subsection ~~(a),~~ **(b),** "applicant" does not include an individual, a corporation, a limited liability company, a partnership, or a business association that:

(1) generates solid or hazardous waste; and

(2) stores, treats, processes, or disposes of the solid or hazardous waste at a site that is:

(A) owned by the individual, corporation, partnership, or business association; and

(B) limited to the storage, treatment, processing, or disposal of solid or hazardous waste generated by that individual, corporation, limited liability company, partnership, or business association.

SECTION 5. IC 13-11-2-71, AS AMENDED BY P.L.137-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 71. "Environmental management laws" refers to the following:

(1) IC 13-12-2 and IC 13-12-3.

(2) IC 13-13.

(3) IC 13-14.

(4) IC 13-15.

(5) IC 13-16.

(6) IC 13-17-3-15, IC 13-17-8-10, IC 13-17-10, and IC 13-17-11.

(7) **IC 13-18-10,** IC 13-18-12, IC 13-18-13-31, and IC 13-18-15 through IC 13-18-20.

(8) IC 13-19-1, IC 13-19-4, and IC 13-19-5-17.

(9) IC 13-20-1, IC 13-20-2, IC 13-20-4 through IC 13-20-15, IC 13-20-17.7, IC 13-20-19 through IC 13-20-21, and IC 13-20-22-21.

(10) IC 13-22.

(11) IC 13-23.

(12) IC 13-24.

(13) IC 13-25-1 through IC 13-25-5.

(14) IC 13-27-8.

(15) IC 13-30, except IC 13-30-1.".

Page 3, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 7. IC 13-11-2-129.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 129.9. "Modification", for purposes of IC 13-18-10, refers to an expansion of a confined feeding operation or concentrated animal feeding operation that results in either of the following:**

(1) An increase in the confined animal capacity.

(2) An increase in the liquid manure storage capacity.

SECTION 8. IC 13-11-2-191 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 191. **(a) "Responsible party", for purposes of IC 13-18-10, means any of the following:**

(1) An applicant referred to in IC 13-18-10-1.5(a).

(2) A person referred to in IC 13-18-10-1.5(b).

(3) An officer, a corporation director, or a senior management official of any of the following that is an applicant referred to in IC 13-18-10-1.5(a) or a person referred to in IC 13-18-10-1.5(b):

(A) A corporation.

(B) A partnership.

(C) A limited liability company.

(D) A business association.

~~(a)~~ **(b)** "Responsible party", for purposes of IC 13-19-4, means:

(1) an officer, a corporation director, or a senior management official of a corporation, partnership, limited liability company, or business association that is an applicant; or

(2) an individual, a corporation, a limited liability company, a partnership, or a business association that owns, directly or indirectly, at least a twenty percent (20%) interest in the applicant.

~~(b)~~ **(c)** "Responsible party", for purposes of IC 13-20-6, means:

(1) an officer, a corporation director, or a senior management official of a corporation, partnership, limited liability company, or business association that is an operator; or

(2) an individual, a corporation, a limited liability company, a partnership, or a business association that owns, directly or indirectly, at least a twenty percent (20%) interest in the operator.

~~(c)~~ **(d)** "Responsible party", for purposes of IC 13-24-2, has the meaning set forth in Section 1001 of the federal Oil Pollution Act of 1990 (33 U.S.C. 2701).

~~(d)~~ **(e)** "Responsible party", for purposes of IC 13-25-6, means a person:

(1) who:

(A) owns hazardous material that is involved in a hazardous materials emergency; or

(B) owns a container or owns or operates a vehicle that contains hazardous material that is involved in a hazardous materials emergency; and

(2) who:

(A) causes; or

(B) substantially contributes to the cause of;

the hazardous materials emergency.".

Page 5, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 12. IC 13-18-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. (a) A person may not start construction of a confined feeding operation **or CAFO** without obtaining **both:**

(1) the prior approval of the department; **and**

(2) any approval required by a county, city, or town in which the:

(A) confined feeding operation; or

(B) CAFO;

is or would be constructed or operated.

(b) **Subject to section 1.5 of this chapter,** obtaining an NPDES permit for a CAFO meets the requirements of subsection ~~(a)~~ **(a)(1)** and 327 IAC 16 to obtain an approval.

SECTION 13. IC 13-18-10-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 1.5. (a) An applicant must include in the application the disclosure statement or statements referred to in subsection (c) and proof of financial assurance referred to in subsection (f).**

(b) A person that obtains an NPDES permit for a CAFO as provided in section 1(b) of this chapter must include the disclosure statement or statements referred to in subsection (c) and proof of financial assurance referred to in subsection (f) in:

(1) the application for an individual NPDES permit for the CAFO under 327 IAC 5; or

(2) the notice of intent filed under 327 IAC 15 for general NPDES permit coverage for the CAFO.

(c) A person referred to in subsection (a) or (b) must

submit to the department a disclosure statement for each responsible party that includes the following:

(1) The name and business address of the responsible party.

(2) A description of the responsible party's experience in managing the type of facility that will be managed under the permit.

(3) A description of all pending administrative, civil, or criminal enforcement actions filed against the responsible party alleging either of the following:

(A) Acts or omissions that:

(i) constitute a material violation of a state or federal environmental law or regulation; and

(ii) present a substantial endangerment to human health or the environment.

(B) Knowing, repeated violations of state or federal environmental laws or regulations that could lead to environmental harm.

(4) A description of all finally adjudicated or settled administrative, civil, or criminal enforcement actions resolved against the responsible party within the five (5) years that immediately precede the date of the application involving either of the following:

(A) Acts or omissions that:

(i) constitute a material violation of a state or federal environmental law or regulation; and

(ii) present a substantial endangerment to human health or the environment.

(B) Knowing, repeated violations of state or federal environmental laws or regulations that could lead to environmental harm.

(5) Identification of all state and federal environmental permits previously denied or revoked.

(d) A disclosure statement submitted under subsection (c):

(1) must be executed under oath or affirmation; and

(2) is subject to the penalty for perjury under IC 35-44-2-1.

(e) The department may investigate and verify the information set forth in a disclosure statement submitted under subsection (b).

(f) A person referred to in subsection (a) or (b) must submit to the department evidence of financial assurance, maintained in accordance with and in amounts set in rules adopted under section 4 of this chapter. The financial assurance must be in the form of:

(1) a bond for performance, executed by a corporate surety licensed to do business in Indiana;

(2) a negotiable certificate of deposit; or

(3) a negotiable letter of credit;

payable to the department and conditional upon faithful performance of the requirements of this chapter and compliance with other environmental laws.

SECTION 14. IC 13-18-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2. (a) Application for approval of the construction **or modification** of a confined feeding operation **or a CAFO** must be made on a form provided by the department. An applicant must submit the completed application form to the department together with the following:

(1) Plans and specifications for the design and operation of manure treatment and control facilities.

(2) A manure management plan that outlines procedures for the following:

(A) Soil testing.

(B) Manure testing.

(3) Maps of manure application areas.

(4) Supplemental information that the department requires, including the following:

(A) General features of topography.

(B) Soil types.

(C) Drainage course.

(D) Identification of nearest streams, ditches, and lakes.

(E) Location of field tiles.

(F) Location of land application areas.

(G) Location of manure treatment facilities.

(H) Farmstead plan, including the location of water wells on the site.

(5) **Except as provided in subsection (e),** a fee of one hundred dollars ($100). The department shall refund the fee if the department does not make a determination in accordance with the time period established under section 2.1 of this chapter.

(6) The disclosure statement or statements and the proof of financial assurance required under section 1.5 of this chapter.

(b) An applicant who applies for approval to construct a confined feeding operation **or a CAFO** on land that is undeveloped or for which a valid existing approval has not been issued, **or to modify a confined feeding operation or a CAFO,** shall make a reasonable effort to provide notice:

(1) to:

(A) each person who owns land that adjoins the land on which the confined feeding operation **or the CAFO** is to be located **or modified;** or

(B) if a person who owns land that adjoins the land on which the confined feeding operation **or the CAFO** is to be located **or modified** does not occupy the land, all occupants of the land; and

(2) to the county executive of the county in which the confined feeding operation **or the CAFO** is to be located **or modified;**

not more than ten (10) working days after submitting an application. The notice must be sent by mail, be in writing, include the date on which the application was submitted to the department, and include a brief description of the subject of the application. The applicant shall pay the cost of complying with this subsection. The applicant shall submit an affidavit to the department that certifies that the applicant has complied with this subsection.

(c) A person must comply with subsection (d) if:

(1) the person is not required to file an application as provided in section 1(b) of this chapter for construction of a CAFO:

(A) on land that is undeveloped; or

(B) for which:

(i) a valid existing approval has not been issued; or

(ii) an NPDES permit has not been obtained;

or for modification of a CAFO; and

(2) the person files:

(A) an application under 327 IAC 5 for an individual NPDES permit for the construction or modification of a CAFO; or

(B) a notice of intent under 327 IAC 15 for general NPDES permit coverage for construction or modification of a CAFO.

(d) A person referred to in subsection (c) shall make a reasonable effort to provide notice:

(1) to:

(A) each person who owns land that adjoins the land on which the CAFO is to be located or modified; or

(B) if a person who owns land that adjoins the land on which the CAFO is to be located or modified does not occupy the land, all occupants of the land; and

(2) to the county executive of the county in which the CAFO is to be located or modified;

not more than ten (10) working days after submitting an application or filing a notice of intent. The notice must be sent by mail, be in writing, include the date on which the

application or notice of intent was submitted to or filed with the department, and include a brief description of the subject of the application or notice of intent. The person shall pay the cost of complying with this subsection. The person shall submit an affidavit to the department that certifies that the person has complied with this subsection.

(e) The fee for a modification of a confined feeding operation or CAFO is the fee determined by rule by the department as a percentage of the fee established under subsection (a)(5) for the type of operation determined to account for the magnitude of the modification as compared to the magnitude of the original construction.

~~(e)~~ **(f)** Plans and specifications for manure treatment or control facilities for a confined feeding operation **or a CAFO** must secure the approval of the department. The department shall approve the construction and operation of the manure management system of the confined feeding operation **or the CAFO** if the commissioner determines that the applicant meets the requirements of:

(1) this chapter;

(2) rules adopted under this chapter;

(3) the water pollution control laws;

(4) rules adopted under the water pollution control laws; and

(5) policies and statements adopted under IC 13-14-1-11.5 relative to confined feeding operations **or CAFOs.**

SECTION 15. IC 13-18-10-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2.1. (a) The department:

(1) shall make a determination on an application not later than ninety (90) days after the date the department receives the completed application, including all required supplemental information, unless the department and the applicant agree to a longer time; and

(2) may conduct any inquiry or investigation, consistent with the department's duties under this chapter, the department considers necessary before making a determination.

(b) If the department fails to make a determination on an application not later than ninety (90) days after the date the department receives the completed application, the applicant may request and receive a refund of an approval application fee paid by the applicant, and the commissioner shall:

(1) continue to review the application;

(2) approve or deny the application as soon as practicable; and

(3) refund the applicant's application fee not later than twenty-five (25) working days after the receipt of the applicant's request.

(c) The commissioner may suspend the processing of an application and the ninety (90) day period described under this section if **either of the following applies:**

(1) The department:

(A) determines within thirty (30) days after the department receives the application that the application is incomplete; and

(B) has mailed a notice of deficiency to the applicant that specifies the parts of the application that:

~~(1)~~ **(i)** do not contain adequate information for the department to process the application; or

~~(2)~~ **(ii)** are not consistent with applicable law.

(2) The department:

(A) determines that the applicant is subject to any pending action as described in section 1.5(c)(3) of this chapter; and

(B) is diligently pursuing the pending action under IC 13-30.

(d) The department may establish requirements in an approval regarding that part of the confined feeding operation **or the CAFO** that concerns manure handling and application to assure compliance with:

(1) this chapter;

(2) rules adopted under this chapter;

(3) the water pollution control laws;

(4) rules adopted under the water pollution control laws; and

(5) policies and statements adopted under IC 13-14-1-11.5 relative to confined feeding operations **or CAFOs.**

(e) Subject to subsection (f), the commissioner may deny an application upon making either of the following findings:

(1) A responsible party intentionally misrepresented or concealed any material fact in:

(A) a disclosure statement; or

(B) other information;

required by section 1.5 of this chapter.

(2) An enforcement action was resolved against a responsible party as described in section 1.5(c)(4) of this chapter.

(f) The commissioner may not deny an application under this section based solely on pending actions disclosed under section 1.5(c)(3) of this chapter.

(g) Before making a determination to approve or deny an application, the commissioner shall consider the following factors:

(1) The nature and details of the acts attributed to the applicant or responsible party.

(2) The degree of culpability of the responsible party.

(3) The responsible party's cooperation with the state or federal agencies involved in the investigation of the activities involved in actions referred to in section 1.5(c)(4) of this chapter.

(4) The responsible party's dissociation from any other persons or entities convicted in a criminal enforcement action referred to in section 1.5(c)(4) of this chapter.

(5) Prior or subsequent self-policing or internal education programs established by the responsible party to prevent acts, omissions, or violations referred to in section 1.5(c)(4) of this chapter.

(6) Whether the best interests of the public will be served by denial of the permit.

(7) Any demonstration of good citizenship by the person or responsible party.

(h) Except as provided in subsection (i), in taking action under subsection (e), the commissioner shall make separately stated findings of fact to support the action taken. The findings of fact must:

(1) include a statement of ultimate fact; and

(2) be accompanied by a concise statement of the underlying basic facts of record to support the findings.

(i) If the commissioner denies an application under subsection (e), the commissioner is not required to explain the extent to which any of the factors set forth in subsection (g) influenced the denial.

~~(c)~~ **(j)** The department may amend an approval **of an application** or revoke an approval **of an application:**

(1) for failure to comply with:

(A) this chapter;

(B) rules adopted under this chapter;

(C) the water pollution control laws; or

(D) rules adopted under the water pollution control laws; and

(2) as needed to prevent discharges of manure into the environment that pollute or threaten to pollute the waters of the state.

SECTION 16. IC 13-18-10-2.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2.2. (a) If an applicant receives an approval under this chapter and completes construction, not more than thirty (30) days after the date the applicant completes the construction the applicant shall

execute and send to the department an affidavit that affirms under penalties of perjury that the confined feeding operation **or the CAFO:**

(1) was constructed; and

(2) will be operated;

in accordance with the requirements of the department's approval.

(b) Construction of an approved confined feeding operation **or a CAFO** must:

(1) begin not later than two (2) years; and

(2) be completed not later than four (4) years;

after the date the department approves the construction of the confined feeding operation **or the CAFO** or the date all appeals brought under IC 4-21.5 concerning the construction of the confined feeding operation **or the CAFO** have been completed, whichever is later.

SECTION 17. IC 13-18-10-2.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2.6. The department shall establish a compliance and technical assistance program for owners and operators of confined feeding operations **and CAFOs** that may be administered by:

(1) the department;

(2) a state college or university; or

(3) a contractor.

SECTION 18. IC 13-18-10-4, AS AMENDED BY P.L.2-2007, SECTION 167, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4. (a) **Subject to subsection (c),** the board may adopt rules under IC 4-22-2 and IC 13-14-9 and the department may adopt policies or statements under IC 13-14-1-11.5 that are necessary for the proper administration of this chapter. The rules, policies, or statements may concern construction and operation of confined feeding operations **and CAFOs** and may include uniform standards for:

(1) construction and manure containment that are appropriate for a specific site; and

(2) manure application and handling that are consistent with best management practices:

(A) designed to reduce the potential for manure to be conveyed off a site by runoff or soil erosion; and

(B) that are appropriate for a specific site.

(b) Standards adopted in a rule, policy, or statement under subsection (a) must:

(1) consider confined feeding standards that are consistent with standards found in publications from:

(A) the United States Department of Agriculture;

(B) the Natural Resources Conservation Service of the United States Department of Agriculture;

(C) the Midwest Plan Service; and

(D) postsecondary educational institution extension bulletins; and

(2) be developed through technical review by the department, postsecondary educational institution specialists, and other animal industry specialists.

(c) The board shall:

(1) adopt rules under IC 4-22-2 and IC 13-14-9 to set the amount of financial assurance required of a person under section 1.5(f) of this chapter; and

(2) set graduated amounts under subdivision (1) based on the greater potential liability associated with larger operations.".

Page 24, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 42. IC 36-8-12-2, AS AMENDED BY P.L.43-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2. As used in this chapter:

"Employee" means a person in the service of another person under a written or implied contract of hire or apprenticeship.

"Employer" means:

(1) a political subdivision;

(2) an individual or the legal representative of a deceased individual;

(3) a firm;

(4) an association;

(5) a limited liability company;

(6) an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth in IC 22-3-2-2.5(a); or

(7) a corporation or its receiver or trustee;

that uses the services of another person for pay.

"Essential employee" means an employee:

(1) who the employer has determined to be essential to the operation of the employer's daily enterprise; and

(2) without whom the employer is likely to suffer economic injury as a result of the absence of the essential employee.

"Nominal compensation" means annual compensation of not more than twenty thousand dollars ($20,000).

"Public servant" has the meaning set forth in IC 35-41-1-24.

"Responsible party" has the meaning set forth in ~~IC 13-11-2-191(d).~~ **IC 13-11-2-191(e).**

"Volunteer fire department" means a department or association organized for the purpose of answering fire alarms, extinguishing fires, and providing other emergency services, the majority of members of which receive no compensation or nominal compensation for their services.

"Volunteer firefighter" means a firefighter:

(1) who, as a result of a written application, has been elected or appointed to membership in a volunteer fire department;

(2) who has executed a pledge to faithfully perform, with or without nominal compensation, the work related duties assigned and orders given to the firefighter by the chief of the volunteer fire department or an officer of the volunteer fire department, including orders or duties involving education and training as prescribed by the volunteer fire department or the state; and

(3) whose name has been entered on a roster of volunteer firefighters that is kept by the volunteer fire department and that has been approved by the proper officers of the unit.

"Volunteer member" means a member of a volunteer emergency medical services association connected with a unit as set forth in IC 16-31-5-1(6).

SECTION 43. IC 36-8-12-13, AS AMENDED BY P.L.107-2007, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 13. (a) A volunteer fire department may impose a charge on the owner of property, the owner of a vehicle, or a responsible party (as defined in ~~IC 13-11-2-191(d))~~ **IC 13-11-2-191(e))** that is involved in a hazardous material or fuel spill or chemical or hazardous material related fire (as defined in IC 13-11-2-96(b)):

(1) that is responded to by the volunteer fire department; and

(2) that members of that volunteer fire department assisted in extinguishing, containing, or cleaning up.

(b) The volunteer fire department shall bill the owner or responsible party of the vehicle for the total dollar value of the assistance that was provided, with that value determined by a method that the state fire marshal shall establish under IC 36-8-12-16. A copy of the fire incident report to the state fire marshal must accompany the bill. This billing must take place within thirty (30) days after the assistance was provided. The owner or responsible party shall remit payment directly to the governmental unit providing the service. Any money that is collected under this section may be:

(1) deposited in the township firefighting fund established in IC 36-8-13-4;

(2) used to pay principal and interest on a loan made by the department of homeland security established by IC 10-19-2-1 or a division of the department for the purchase of new or used firefighting and other emergency equipment or apparatus; or

(3) used for the purchase of equipment, buildings, and property for firefighting, fire protection, and other emergency services.

(c) The volunteer fire department may maintain a civil action to recover an unpaid charge that is imposed under subsection (a).

SECTION 44. IC 36-8-12.2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 5. As used in this chapter, "responsible party" has the meaning set forth in ~~IC 13-11-2-191(d).~~ **IC 13-11-2-191(e).**".

Page 24, after line 40, begin a new paragraph and insert:

"SECTION 47. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies notwithstanding the effective date of:**

(1) IC 13-18-10-1.5, as added by this act; and

(2) the amendments under this act to IC 13-11-2-8, IC 13-11-2-191, IC 13-18-10-1, IC 13-18-10-2, IC 13-18-10-2.1, and IC 13-18-10-2.2.

(b) The definitions in IC 13-11-2 apply throughout this SECTION.

(c) Subject to subsection (d), the Indiana Code sections referred to in subsection (a), as added or amended by this act, apply to the following confined feeding operations and CAFOs in the same manner those sections would have applied if those sections had been in effect on the date the application for the confined feeding operation or CAFO was submitted to the department or the notice of intent for general NPDES permit coverage for the CAFO was filed with the department:

(1) A confined feeding operation or CAFO for which a person is required to submit an application to the department for approval under IC 13-18-10-1(a), as amended by this act.

(2) A CAFO for which a person is required to submit an application to the department for approval of an individual NPDES permit for the CAFO under 327 IAC 5.

(3) A CAFO for which a person is required to file a notice of intent under 327 IAC 15 for general NPDES permit coverage for the CAFO.

(d) Subsection (c) applies only if:

(1) the date of submission of a notice of intent referred to in subsection (c) is on or after the effective date of this SECTION; or

(2) an application referred to in subsection (c) was not approved by the department before the effective date of this SECTION.

SECTION 48. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 200 as printed February 22, 2008.)

DVORAK

Representative Foley rose to a point of order, citing Rule 118, stating that the motion was attempting to incorporate into Engrossed Senate Bill 200 a bill pending before the House. The Speaker ruled the point was not well taken.

APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Dvorak's amendment (200–2) does not violate House Rule 118. The requirement for confined animal feeding permits in House Bill 1168 are similar to Amendment 2. Amendment 2 is most certainly a bill pending. To argue that it is not is to ignore not only our House Rules, but our traditions.

BOSMA
FOLEY

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Dobis.

The question was, Shall the ruling of the Chair be sustained? Roll Call 234: yeas 50, nays 48. The ruling of the Chair was sustained.

The Speaker Pro Tempore yielded the gavel to the Speaker.

The question was on the motion of Representative Dvorak (200–2).Upon request of Representatives Friend and Bosma, the Speaker ordered the roll of the House to be called. Roll Call 235: yeas 49, nays 47. Motion prevailed.

HOUSE MOTION
(Amendment 235–1)

Mr. Speaker: I move that Engrossed Senate Bill 235 be amended to read as follows:

Page 9, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 16. IC 13-20-2-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4.5. (a) Before an original permit for the construction or operation of a landfill that is or may be located in a county that does not zone under IC 36-7-4 may be granted, the applicant must submit a bond:**

(1) to the department; and

(2) in an amount that is equal to the projected annual gross income of the landfill.

(b) The department shall hold a bond submitted to the department under subsection (a) for three (3) years after the date the landfill is closed.

SECTION 17. IC 13-20-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. The commissioner may deny an application for an original permit for the construction or operation of a landfill if:

(1) the commissioner finds that:

~~(1)~~ **(A)** the applicant does not have a positive net worth of at least two hundred fifty thousand dollars ($250,000); or

~~(2)~~ **(B)** there is at least one (1) unsatisfied and nonappealable judgment requiring the payment of money by the applicant; **or**

(2) the applicant fails to submit a bond to the department as required under section 4.5 of this chapter.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 200 as printed February 22, 2008.)

GRUBB

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 192

Representative Hoy called down Engrossed Senate Bill 192 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 192–1)

Mr. Speaker: I move that Engrossed Senate Bill 192 be amended to read as follows:

Page 2, line 5, delete "person" and insert "**person, other than a media source that carries advertising or a press release for the performance or production,**".

(Reference is to ESB 192 as printed February 22, 2008.)

BORDERS

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 189

Representative GiaQuinta called down Engrossed Senate Bill 189 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 189–1)

Mr. Speaker: I move that Engrossed Senate Bill 189 be amended to read as follows:

Page 5, after line 13, begin a new paragraph and insert:

"SECTION 7. IC 15-12-1-43, AS ADDED BY SEA 190-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 43. (a) A corporation or an association organized under statutes in effect before February 23, 1925, may by a majority vote of its stockholders or members, ~~may~~ elect to be governed by this chapter by:

(1) limiting its **stockholders or** membership; and

(2) adopting the other restrictions provided in this chapter.

(b) The corporation or association shall make out in duplicate a statement signed and sworn to by its directors specifying that the corporation or association has, by a majority vote of the stockholders or members:

(1) decided to accept the benefits of and be bound by this chapter; and

(2) authorized the changes.

Articles of incorporation must be filed as required in section 12 of this chapter, except that the articles of incorporation must be signed by the current members of the board of directors. The filing fee is the same as for filing an amendment to articles of incorporation.

SECTION 8. IC 15-14-1-12, AS ADDED BY SEA 190-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) As used in this section, "county executive" means the board of commissioners of a county elected under IC 36-2-2-2.

(b) The county executive ~~of a county containing taxable property with a value of at least twenty million dollars ($20,000,000)~~ may make an allowance out of the general fund of the county to a corporation incorporated under this chapter.

(c) Before an allowance under subsection (b) is made, the president or secretary of the association shall file a sworn statement with the county executive showing the:

(1) name and date of organization of the association; and

(2) amount expended for fairgrounds and permanent improvements needed for the fairgrounds and the amount necessary to complete the improvements.

(d) After receiving a sworn statement under subsection (c), the county executive may make an allowance that the county executive considers necessary, but that does not exceed either of the following:

(1) Ten thousand dollars ($10,000).

(2) One-half (½) the amount shown by the statement to be expended on the grounds and improvements.

(e) The amount appropriated under this section is a lien on the real and personal property of the association.

(f) Dividends may not be declared or paid to the incorporators or stockholders until the appropriation made by the board is repaid to the county treasurer with interest.

SECTION 9. IC 15-14-7-3, AS ADDED BY SEA 190-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The president or secretary of a 4-H club described in section 2 of this chapter may file a petition signed by at least thirty (30) resident freeholders of the county with the county auditor of the county requesting that the executive make an appropriation provided for in section 2 of this chapter.

(b) The county auditor shall have the petition, without the signatures, ~~published~~ **printed** in a newspaper of general circulation ~~printed and~~ **that is** published in the county.

(c) The notice must state the date and time when the petition will be considered by the executive. The auditor shall set the date, ~~and~~ time, **and place** at which the petition will be considered, which must be at least thirty (30) days after the publication of the notice.

(d) If not later than the date and time published in the notice for the consideration of the petition by the executive, a remonstrance signed by more resident freeholders of the county than the number signing the petition is filed with the county auditor protesting the allowance, the executive shall consider the remonstrance. If the executive finds that the remonstrance is signed by a greater number of resident freeholders than the petition asking for an allowance, the executive:

(1) may not make an appropriation for the purposes set forth in section 2 of this chapter; and

(2) shall dismiss the petition and take no further action.

(e) After final acceptance by the executive, a petition under this section is effective for one (1) to five (5) years, as determined by the executive.

SECTION 10. IC 15-17-7-5, AS ADDED BY SEA 190-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) Cattle, goats, and cervids that react positively to a tuberculin test must be marked immediately using a method of identification approved by the board.

(b) All animals marked under this section shall be appraised by an authorized agent of the board or the United States Department of Agriculture.

(c) An identification mark on reactor cattle, **goats, and cervids** may not be tampered with or altered.

SECTION 11. IC 15-17-10-1, AS ADDED BY SEA 190-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) The owner of an animal affected with a dangerous or contagious disease shall report the disease to the state veterinarian not later than forty-eight (48) hours after discovering the existence of the disease.

(b) A ~~person~~ **veterinarian, caretaker, or custodian of an animal** who:

(1) is not the owner of ~~an~~ **the** animal; ~~who~~ **and**

(2) knows or has reason to suspect that a dangerous, contagious, or infectious disease exists ~~among animals~~ **in the animal;**

shall report the existence of disease to the state veterinarian or local health officer not later than forty-eight (48) hours after discovering **or having reason to suspect** the disease exists.

(c) A local health officer who receives a report from a person under this section shall report the disease within twenty-four (24) hours to the state veterinarian.

SECTION 12. IC 15-17-15-3, AS ADDED BY SEA 190-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The board may adopt rules requiring that:

(1) all dairy or breeding cattle and bison sold through any public or private sale must be accompanied with an official health certificate; and

(2) the cattle and bison test negative for brucellosis and tuberculosis.

However, a special form prescribed by the board may be used for this purpose instead of the certificate of veterinary inspection.

(b) The board may adopt rules exempting animals from testing for brucellosis and tuberculosis within Indiana or other states or areas.

(c) ~~The board may not adopt rules exempting animals presenting little risk of spreading disease from brucellosis and tuberculosis testing requirements. However,~~ The state veterinarian may order cattle of any age to be tested to determine the disease status of the animal.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 189 as printed February 22, 2008.)

FRIEND

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 169

Representative Orentlicher called down Engrossed Senate Bill 169 for second reading. The bill was read a second time by title. Representative Orentlicher withdrew the call of Engrossed Senate Bill 169.

Engrossed Senate Bill 166

Representative C. Brown called down Engrossed Senate Bill 166 for second reading. The bill was read a second time by title. Representative C. Brown withdrew the call of Engrossed Senate Bill 166.

Engrossed Senate Bill 157

Representative Stemler called down Engrossed Senate Bill 157 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 157–1)

Mr. Speaker: I move that Engrossed Senate Bill 157 be amended to read as follows:

Page 3, line 16, after "test" insert "**, including before receiving treatment,**".

Page 3, line 25, delete "other drug that has been determined to be abused in".

Page 3, line 25, delete "the program's locality or any".

Page 3, line 26, after "other" insert "**suspected or known**".

Page 3, line 35, delete "must administer an administrative" and insert "**and the patient must comply with the requirements under subsection (c).**

(c) If a patient tests positive under a test for a controlled substance or illegal drug that is not allowed under subsection (b), the following conditions must be met:

(1) The opioid treatment program must refer the patient to the onsite physician for a clinical evaluation that must be conducted not more than ten (10) days from the date of the patient's positive test. The physician shall consult with medical and behavioral staff to conduct the evaluation. The clinical evaluation must recommend a remedial action for the patient that may include discharge from the opioid treatment program or amending the treatment plan to require a higher level of supervision.

(2) The opioid treatment program may not allow the patient to take any opioid treatment medications from the treatment facility until the patient has completed a clinical assessment under subdivision (1) and has passed a random test. The patient must report to the treatment facility daily, except when the facility is closed, until the onsite physician, after consultation with the medical and behavioral staff, determines that daily treatment is no longer necessary.

(3) The patient must take a weekly random test until the patient passes a test under subsection (b).

(d) An opioid treatment program must conduct all tests required under this section in an observed manner to assure that a false sample is not provided by the patient.".

Page 3, delete line 36.

Page 4, delete line 42.

Page 5, delete lines 1 through 7.

Page 6, between lines 23 and 24, begin a new line block indented and insert:

"**(9) The number of patients who tested positive under a test for a controlled substance or illegal drug not allowed under section 2.5(b) of this chapter.**".

(Reference is to ESB 157 as printed February 22, 2008.)

STEMLER

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 153

Representative C. Brown called down Engrossed Senate Bill 153 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 153–1)

Mr. Speaker: I move that Engrossed Senate Bill 153 be amended to read as follows:

Page 2, between lines 37 and 38, begin a new paragraph and insert:

"SECTION 2. IC 27-4-1-4, AS AMENDED BY P.L.131-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The following are hereby defined as unfair methods of competition and unfair and deceptive acts and practices in the business of insurance:

(1) Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or statement:

(A) misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon;

(B) making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies;

(C) making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates;

(D) using any name or title of any policy or class of policies misrepresenting the true nature thereof; or

(E) making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender the policyholder's insurance.

(2) Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to any person in the conduct of the person's insurance business, which is untrue, deceptive, or misleading.

(3) Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

(4) Entering into any agreement to commit, or individually or by a concerted action committing any act of boycott, coercion, or intimidation resulting or tending to result in unreasonable restraint of, or a monopoly in, the business of insurance.

(5) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive. Making any false entry in any book, report, or statement of any insurer with intent

to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to which such insurer is required by law to report, or which has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report, or statement of such insurer.

(6) Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) Making or permitting any of the following:

(A) Unfair discrimination between individuals of the same class and equal expectation of life in the rates or assessments charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract; however, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(B) Unfair discrimination between individuals of the same class involving essentially the same hazards in the amount of premium, policy fees, assessments, or rates charged or made for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever; however, in determining the class, consideration may be given to the nature of the risk, the plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(C) Excessive or inadequate charges for premiums, policy fees, assessments, or rates, or making or permitting any unfair discrimination between persons of the same class involving essentially the same hazards, in the amount of premiums, policy fees, assessments, or rates charged or made for:

(i) policies or contracts of reinsurance or joint reinsurance, or abstract and title insurance;

(ii) policies or contracts of insurance against loss or damage to aircraft, or against liability arising out of the ownership, maintenance, or use of any aircraft, or of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance; or

(iii) policies or contracts of any other kind or kinds of insurance whatsoever.

However, nothing contained in clause (C) shall be construed to apply to any of the kinds of insurance referred to in clauses (A) and (B) nor to reinsurance in relation to such kinds of insurance. Nothing in clause (A), (B), or (C) shall be construed as making or permitting any excessive, inadequate, or unfairly discriminatory charge or rate or any charge or rate determined by the department or commissioner to meet the requirements of any other insurance rate regulatory law of this state.

(8) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract or policy of insurance of any kind or kinds whatsoever, including but not in limitation, life annuities, or agreement as to such contract or policy other than as plainly expressed in such contract or policy issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends, savings, or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract or policy; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, limited liability company, or partnership, or any dividends, savings, or profits accrued thereon, or anything of value whatsoever not specified in the contract. Nothing in this subdivision and subdivision (7) shall be construed as including within the definition of discrimination or rebates any of the following practices:

(A) Paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, so long as any such bonuses or abatement of premiums are fair and equitable to policyholders and for the best interests of the company and its policyholders.

(B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

(C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, which may be made retroactive only for such policy year.

(D) Paying by an insurer or insurance producer thereof duly licensed as such under the laws of this state of money, commission, or brokerage, or giving or allowing by an insurer or such licensed insurance producer thereof anything of value, for or on account of the solicitation or negotiation of policies or other contracts of any kind or kinds, to a broker, an insurance producer, or a solicitor duly licensed under the laws of this state, but such broker, insurance producer, or solicitor receiving such consideration shall not pay, give, or allow credit for such consideration as received in whole or in part, directly or indirectly, to the insured by way of rebate.

(9) Requiring, as a condition precedent to loaning money upon the security of a mortgage upon real property, that the owner of the property to whom the money is to be loaned negotiate any policy of insurance covering such real property through a particular insurance producer or broker or brokers. However, this subdivision shall not prevent the exercise by any lender of the lender's right to approve or disapprove of the insurance company selected by the borrower to underwrite the insurance.

(10) Entering into any contract, combination in the form of a trust or otherwise, or conspiracy in restraint of commerce in the business of insurance.

(11) Monopolizing or attempting to monopolize or combining or conspiring with any other person or persons to monopolize any part of commerce in the business of insurance. However, participation as a member, director, or officer in the activities of any nonprofit organization of insurance producers or other workers in the insurance business shall not be interpreted, in itself, to constitute a combination in restraint of trade or as combining to create a monopoly as provided in this subdivision and subdivision (10). The enumeration in this chapter of specific unfair methods of competition and unfair or deceptive acts and

practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or department or of any court of review under section 8 of this chapter.

(12) Requiring as a condition precedent to the sale of real or personal property under any contract of sale, conditional sales contract, or other similar instrument or upon the security of a chattel mortgage, that the buyer of such property negotiate any policy of insurance covering such property through a particular insurance company, insurance producer, or broker or brokers. However, this subdivision shall not prevent the exercise by any seller of such property or the one making a loan thereon of the right to approve or disapprove of the insurance company selected by the buyer to underwrite the insurance.

(13) Issuing, offering, or participating in a plan to issue or offer, any policy or certificate of insurance of any kind or character as an inducement to the purchase of any property, real, personal, or mixed, or services of any kind, where a charge to the insured is not made for and on account of such policy or certificate of insurance. However, this subdivision shall not apply to any of the following:

(A) Insurance issued to credit unions or members of credit unions in connection with the purchase of shares in such credit unions.

(B) Insurance employed as a means of guaranteeing the performance of goods and designed to benefit the purchasers or users of such goods.

(C) Title insurance.

(D) Insurance written in connection with an indebtedness and intended as a means of repaying such indebtedness in the event of the death or disability of the insured.

(E) Insurance provided by or through motorists service clubs or associations.

(F) Insurance that is provided to the purchaser or holder of an air transportation ticket and that:

(i) insures against death or nonfatal injury that occurs during the flight to which the ticket relates;

(ii) insures against personal injury or property damage that occurs during travel to or from the airport in a common carrier immediately before or after the flight;

(iii) insures against baggage loss during the flight to which the ticket relates; or

(iv) insures against a flight cancellation to which the ticket relates.

(14) Refusing, because of the for-profit status of a hospital or medical facility, to make payments otherwise required to be made under a contract or policy of insurance for charges incurred by an insured in such a for-profit hospital or other for-profit medical facility licensed by the state department of health.

(15) Refusing to insure an individual, refusing to continue to issue insurance to an individual, limiting the amount, extent, or kind of coverage available to an individual, or charging an individual a different rate for the same coverage, solely because of that individual's blindness or partial blindness, except where the refusal, limitation, or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.

(16) Committing or performing, with such frequency as to indicate a general practice, unfair claim settlement practices (as defined in section 4.5 of this chapter).

(17) Between policy renewal dates, unilaterally canceling an individual's coverage under an individual or group health insurance policy solely because of the individual's medical or physical condition.

(18) Using a policy form or rider that would permit a cancellation of coverage as described in subdivision (17).

(19) Violating IC 27-1-22-25, IC 27-1-22-26, or IC 27-1-22-26.1 concerning motor vehicle insurance rates.

(20) Violating IC 27-8-21-2 concerning advertisements referring to interest rate guarantees.

(21) Violating IC 27-8-24.3 concerning insurance and health plan coverage for victims of abuse.

(22) Violating IC 27-8-26 concerning genetic screening or testing.

(23) Violating IC 27-1-15.6-3(b) concerning licensure of insurance producers.

(24) Violating IC 27-1-38 concerning depository institutions.

(25) Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning the resolution of an appealed grievance decision.

(26) Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) or IC 27-8-5-19.2.

(27) Violating IC 27-2-21 concerning use of credit information.

(28) Violating IC 27-4-9-3 concerning recommendations to consumers.

(29) Engaging in dishonest or predatory insurance practices in marketing or sales of insurance to members of the United States Armed Forces as:

(A) described in the federal Military Personnel Financial Services Protection Act, P.L.109-290; or

(B) defined in rules adopted under subsection (b).

(30) Violating IC 27-8-11-10, IC 27-8-11.1, or IC 27-13-15-5 concerning dialysis treatment.

(b) Except with respect to federal insurance programs under Subchapter III of Chapter 19 of Title 38 of the United States Code, the commissioner may, consistent with the federal Military Personnel Financial Services Protection Act (P.L.109-290), adopt rules under IC 4-22-2 to:

(1) define; and

(2) while the members are on a United States military installation or elsewhere in Indiana, protect members of the United States Armed Forces from;

dishonest or predatory insurance practices.

SECTION 3. IC 27-8-11-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10. (a) The definitions in IC 27-8-11.1 apply throughout this section.**

(b) An agreement entered into under section 3 of this chapter after April 30, 2008, must provide that if the insurer fails to pay, as specified by the agreement, for health care services rendered at a network dialysis facility, the insured is not liable for any sums owed by the insurer.

SECTION 4. IC 27-8-11.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 11.1. Dialysis Treatment

Sec. 1. Except as otherwise provided in this chapter, the definitions in IC 27-8-11-1 apply throughout this chapter.

Sec. 2. As used in this chapter, "dialysis facility" means an outpatient facility in Indiana at which a dialysis treatment provider renders dialysis treatment.

Sec. 3. As used in this chapter, "insured" refers only to an insured who requires dialysis treatment.

Sec. 4. As used in this chapter, "insurer" includes the following:

(1) An administrator licensed under IC 27-1-25.

(2) An agent of an insurer.

Sec. 5. As used in this chapter, "network" refers to a group of providers, each of which has:

(1) individually; or

(2) as a member of a group;

entered into an agreement with a particular insurer under IC 27-8-11-3.

Sec. 6. As used in this chapter, "network dialysis facility" means a dialysis facility that has entered into an agreement with a particular insurer under IC 27-8-11-3.

Sec. 7. As used in this chapter, "out of network dialysis facility" means a dialysis facility that has not entered into an agreement with a particular insurer under IC 27-8-11-3.

Sec. 8. (a) As used in this chapter, "policy of accident and sickness insurance" has the meaning set forth in IC 27-8-5-1, subject to subsection (b).

(b) The term does not include the following:

(1) Accident-only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Worker's compensation or similar insurance.

(4) Automobile medical payment insurance.

(5) A specified disease policy issued as an individual policy.

(6) A limited benefit health insurance policy issued as an individual policy.

(7) A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

(8) A policy that provides a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement.

Sec. 9. To the extent that IC 27-8-11-4.5(c) and IC 27-8-11-4.5(d) conflict with the requirements of this chapter, IC 27-8-11-4.5(c) and IC 27-8-11-4.5(d) do not apply with respect to the requirements of this chapter.

Sec. 10. A policy of accident and sickness insurance must provide coverage for dialysis treatment regardless of whether an insured obtains dialysis treatment at a network dialysis facility or an out of network dialysis facility.

Sec. 11. An insurer that uses a network shall establish a payment rate for a health care service rendered by a dialysis treatment provider at an out of network dialysis facility:

(1) in consultation with the dialysis treatment provider; and

(2) based on the following:

(A) The type of health care service rendered.

(B) The fees usually charged by the dialysis treatment provider.

(C) The prevailing rate paid to a dialysis treatment provider by insurers in the same geographic area during the preceding twelve (12) months.

Sec. 12. In establishing a payment rate under section 11 of this chapter, an insurer:

(1) shall not consider Medicaid and Medicare payment rates; and

(2) shall establish the payment rate at an amount equal to not less than the greatest of the following payment rates paid by the insurer during the previous twelve (12) months:

(A) The highest payment rate paid to the dialysis treatment provider for health care services rendered at a network dialysis facility.

(B) The highest payment rate paid to the dialysis treatment provider for health care services rendered at an out of network dialysis facility.

(C) The highest payment rate paid to any dialysis treatment provider for health care services rendered at a network dialysis facility.

Sec. 13. An insurer may not do any of the following at any time after an insured elects coverage under a policy of accident and sickness insurance:

(1) Restrict benefits or increase costs to the insured in relation to dialysis treatment, including the insured's out-of-pocket expenses.

(2) Change coverage or benefits in any way that would affect dialysis treatment provided at an out of network dialysis facility.

Sec. 14. An insurer shall not do the following:

(1) Make changes in coverage under a policy of accident and sickness in an attempt to cause an insured to elect Medicare as the insured's primary coverage.

(2) Require an insured, as a condition of coverage, to travel more than fifteen (15) miles or for longer than thirty (30) minutes from the insured's home to obtain dialysis treatment, regardless of whether the insured chooses to receive dialysis treatment at a network dialysis facility or an out of network dialysis facility.

Sec. 15. An insurer shall do the following:

(1) Make all claim payments for health care services provided by a dialysis treatment provider payable only to the dialysis treatment provider and not to the insured, regardless of whether the health care services are rendered at a network dialysis facility or an out of network dialysis facility.

(2) File with the department, not later than December 31 of each year, an annual evaluation of the following:

(A) Whether the insurer's network of all dialysis treatment providers is sufficient to provide health care services to insureds covered under a policy of accident and sickness insurance issued by the insurer.

(B) A detailed analysis of whether the requirements of section 14(2) of this chapter are reflected in the actual distance and travel time required for insureds to obtain dialysis treatment.

(3) Maintain a network that at all times includes not less than fifty percent (50%) of the dialysis facilities in the geographic area in which health care services are provided by the network.

Sec. 16. The commissioner shall, not more than thirty (30) days after receiving a filing under section 15(2) of this chapter, approve the filing or make recommendations for changes to the network.

Sec. 17. The department may adopt rules under IC 4-22-2 to implement this section.

SECTION 5. IC 27-13-1-11.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11.6. "Dialysis facility" means an outpatient facility in Indiana at which a dialysis treatment provider renders dialysis treatment.**

SECTION 6. IC 27-13-15-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5. (a) Notwithstanding IC 27-13-1-12, as used in this section, "enrollee" refers only to an enrollee who requires dialysis treatment.**

(b) Notwithstanding IC 27-13-1-19, as used in this section, "health maintenance organization" includes the following:

(1) A limited service health maintenance organization.

(2) An agent of a health maintenance organization or a limited service health maintenance organization.

(c) To the extent that IC 27-13-15-1(b) and IC 27-13-15-1(c) conflict with the requirements of this section, IC 27-13-15-1(b) and IC 27-13-15-1(c) do not apply with respect to the requirements of this section.

(d) An individual contract or a group contract must provide coverage for dialysis treatment regardless of whether the dialysis facility at which an enrollee obtains dialysis treatment is a participating provider.

(e) A health maintenance organization shall establish a payment rate for a health care service rendered by a dialysis treatment provider at a dialysis facility that is not a participating provider:

(1) in consultation with the dialysis treatment provider; and

(2) based on the following:

(A) The type of health care service rendered.

(B) The fees usually charged by the dialysis treatment provider.

(C) The prevailing rate paid to a dialysis treatment provider by health maintenance organizations in the same geographic area during the preceding twelve (12) months.

(f) In establishing a payment rate under subsection (e), a health maintenance organization:

(1) shall not consider Medicaid and Medicare payment rates; and

(2) shall establish the payment rate at an amount equal to not less than the greatest of the following payment rates paid by the health maintenance organization during the previous twelve (12) months:

(A) The highest payment rate paid to the dialysis treatment provider for health care services rendered at a dialysis facility that is a participating provider.

(B) The highest payment rate paid to the dialysis treatment provider for health care services rendered at a dialysis facility that is not a participating provider.

(C) The highest payment rate paid to any dialysis treatment provider for health care services rendered at a dialysis facility that is a participating provider.

(g) A health maintenance organization may not do any of the following at any time after an enrollee elects coverage under an individual contract or a group contract:

(1) Restrict benefits or increase costs to the enrollee in relation to dialysis treatment, including the enrollee's out-of-pocket expenses.

(2) Change coverage or benefits in any way that would affect dialysis treatment rendered at a dialysis facility that is not a participating provider.

(h) A health maintenance organization shall not do the following:

(1) Make changes in coverage under an individual contract or a group contract in an attempt to cause an enrollee to elect Medicare as the enrollee's primary coverage.

(2) Require an enrollee, as a condition of coverage, to travel more than fifteen (15) miles or for longer than thirty (30) minutes from the enrollee's home to obtain dialysis treatment, regardless of whether the enrollee chooses to receive dialysis treatment at a dialysis facility that is a participating provider or a dialysis facility that is not a participating provider.

(i) A health maintenance organization shall do the following:

(1) Make all claim payments for health care services provided by a dialysis treatment provider payable only to the dialysis treatment provider and not to the enrollee, regardless of whether the health care services are provided in a dialysis facility that is a participating provider or a dialysis facility that is not a participating provider.

(2) File with the department, not later than December 31 of each year, an annual evaluation of the following:

(A) Whether the health maintenance organization's network of all dialysis treatment providers is sufficient to provide health care services to enrollees covered under an individual contract or a group contract entered into by the health maintenance organization.

(B) A detailed analysis of whether the requirements of subsection (h)(2) are reflected in the actual distance and travel time required for enrollees to obtain dialysis treatment.

(3) Maintain a participating provider network that at all times includes not less than fifty percent (50%) of the dialysis facilities in the health maintenance organization's service area.

(j) The commissioner shall, not more than thirty (30) days after receiving a filing under subsection (i)(2), approve the filing or make recommendations for changes to the network.

(k) The department may adopt rules under IC 4-22-2 to implement this section.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 153 as printed February 22, 2008.)

FRY

Representative Foley rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

There being no further amendments, the bill was ordered engrossed.

OTHER BUSINESS ON THE SPEAKER'S TABLE

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed House Bills 1001, 1162, 1250, and 1259 with amendments and the same are herewith returned to the House for concurrence.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has not concurred in House amendments to Engrossed Senate Bill 164 and the President Pro Tempore has appointed the following Senators a conference committee to meet and confer with a like committee of the House on said bill, and to report thereon:

Conferees: Miller, Chair; and Sipes
Advisors: C. Lawson and Rogers

MARY C. MENDEL
Principal Secretary of the Senate

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on Representative Walorski's second reading amendment to Engrossed Senate Bill 143, Roll Call 223, on February 26, 2007. In support of this petition, I submit the following reason:

"I was present and in my seat, but when I attempted to vote, I inadvertently pushed the nay button when I intended to vote yea."

BISCHOFF

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 223 to 66 yeas, 32 nays.*]

MOTIONS TO DISSENT FROM SENATE AMENDMENTS

HOUSE MOTION

Mr. Speaker: I move that the House dissent from Senate amendments to Engrossed House Bill 1001 and that the Speaker appoint a committee to confer with a like committee from the Senate and report back to the House.

CRAWFORD

Motion prevailed.

CONFEREES AND ADVISORS APPOINTED

The Speaker announced the appointment of Representatives to conference committees on the following Engrossed House Bills (the Representative listed first is the Chair):

EHB 1001 Conferees: Crawford and Espich
Advisors: Goodin, Welch, Turner, Borror, Buell

With consent of the members, the Speaker returned to bills on second reading.

ENGROSSED SENATE BILLS ON SECOND READING

Engrossed Senate Bill 339

Representative Austin called down Engrossed Senate Bill 339 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 339–2)

Mr. Speaker: I move that Engrossed Senate Bill 339 be amended to read as follows:

Page 18, line 25, delete "IC 8-2.1-17-10)" and insert "**IC 8-2.1-17-10 or 49 CFR 390.5)**".

(Reference is to ESB 339 as printed February 22, 2008.)

AUSTIN

Motion prevailed.

HOUSE MOTION
(Amendment 339–4)

Mr. Speaker: I move that Engrossed Senate Bill 339 be amended to read as follows:

Page 3, line 37, delete "subsection (c)," and insert "**subsections (c) and (d),**".

Page 4, between lines 27 and 28, begin a new paragraph and insert:

"**(d) Notwithstanding subsection (b)(3), the rules adopted under subsection (b) must provide that the classroom instruction and the practice driving instruction required for students of a commercial driver training school be the same as the rules adopted by the state board of education under IC 20-19-2-8(4) concerning the standards for driver education programs, including classroom instruction and practice driving.**".

(Reference is to ESB 339 as printed February 22, 2008.)

BURTON

Motion prevailed.

HOUSE MOTION
(Amendment 339–1)

Mr. Speaker: I move that Engrossed Senate Bill 339 be amended to read as follows:

Page 6, between lines 30 and 31, begin a new paragraph and insert:

"SECTION 3. IC 6-6-2.5-30.5, AS ADDED BY P.L.33-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 30.5. (a) Except as provided in subsection (b), special fuel is exempt from the special fuel tax if:

(1) the special fuel has a nominal biodiesel content of at least twenty percent (20%);

(2) the special fuel is used only for a personal, noncommercial use and is not for resale; and

(3) the individual using the special fuel:

(A) produces the biodiesel content of the special fuel; and

(B) obtains an exemption certificate under subsection (c) before using the special fuel.

(b) ~~The maximum number of gallons of special fuel for which~~ An individual may claim the exemption under this section ~~in a~~ **for not more than five thousand (5,000) gallons of special fuel per** year. ~~is equal to:~~

~~(1) two thousand (2,000), divided by~~

~~(2) the average percentage volume of biodiesel in each gallon used by the individual.~~

(c) The department shall issue an exemption certificate to an individual who produces evidence of nontaxability under subsection (a)(1), (a)(2), and (a)(3). A certificate issued under this subsection is valid for a period determined by the department, but not to exceed five (5) years. The department may allow an individual to renew an exemption certification for additional five (5) year periods. An exemption certificate applies only to special fuel described in subsection (a). An individual holding a certificate issued under this subsection shall notify the department:

(1) of any address change by the individual; and

(2) when the individual ceases using special fuel that is exempt under this section.

(d) An individual who is issued an exemption certificate under this section must submit to the department a report, in a form prescribed by the department, not later than January 20 of each year. The report must ~~include:~~

~~(1) the number of gallons of special fuel in the immediately preceding year; and~~

~~(2) the average percentage volume of biodiesel in each gallon of special fuel;~~

include the number of gallons of special fuel to which the exemption was applied in the calendar year ending on the immediately preceding December 31.

(e) An individual who is issued an exemption certificate under this section is not subject to the reporting requirements under section 35 of this chapter.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 339 as printed February 22, 2008.)

MICON

Motion prevailed.

HOUSE MOTION
(Amendment 339–7)

Mr. Speaker: I move that Engrossed Senate Bill 339 be amended to read as follows:

Page 9, line 12, after "employees." insert "**A damaged or removed whistle post must be repaired or replaced by the railroad not more than forty-eight (48) hours after notification to the railroad of the damage or removal.**".

Page 10, between lines 40 and 41, begin a new paragraph and insert:

"SECTION 5. IC 8-6-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. Every engineer or other person in charge of or operating any such engine, who shall fail or neglect to comply with the provisions of section 1 of this chapter, shall be held personally liable therefor to the State of Indiana, in a penalty of not less than ten dollars ($10.00) nor more than fifty dollars ($50.00), to be recovered in a civil action, at the suit of said state, in the circuit or superior court of any county wherein such crossing may be located; and a railroad company that violates the provisions of ~~IC 1971, 8-6-4-1(b)~~ **section 1(b) or 1(c) of this chapter** shall be held liable therefor to the State of Indiana, in a penalty of not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000), to be recovered in a civil action, at the suit of said state, in the circuit or superior court of any county wherein such crossing may be located; and the company in whose employ such ~~engineer~~ **engineer** or person may be, as well as the person himself, shall be liable in damages to any person, or his representatives, who may be injured in property or person, or to any corporation that may be injured in property, by the neglect

or failure of said engineer or other person as aforesaid.".

Page 20, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 18. IC 34-30-2-24.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 24.4. ~~IC 8-6-4-1(c)~~ **IC 8-6-4-1(f)** (Concerning a railroad company and its employees for injury or property damage resulting from certain accidents).".

Renumber all SECTIONS consecutively.

(Reference is to ESB 339 as printed February 22, 2008.)

BUCK

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 107

Representative VanHaaften called down Engrossed Senate Bill 107 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 107–2)

Mr. Speaker: I move that Engrossed Senate Bill 107 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 7.1-3-1-23.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 23.5. An instructor teaching a class on wine appreciation at an accredited college or university (as described under IC 24-4-11-2) may purchase, acquire, possess, and dispense wine for educational purposes within the class without a permit under this title.**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 107 as printed February 22, 2008.)

DVORAK

Motion prevailed. The bill was ordered engrossed.

SPECIAL ORDER OF BUSINESS

Engrossed Senate Bill 307

The Speaker handed down for second reading Engrossed Senate Bill 307, which had been made a special order of business. The bill was reread a second time by title. The motion of Representative T. Harris was pending.

HOUSE MOTION
(Amendment 307–2)

Mr. Speaker: I move that Engrossed Senate Bill 307 be amended to read as follows:

Page 27, delete lines 4 through 42, begin a new paragraph and insert:

"SECTION 50. IC 23-15-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) Except as otherwise provided in section 2 of this chapter:

(1) a person conducting or transacting business in Indiana under a name, designation, or title other than the real name of the person conducting or transacting such business;

(2) a corporation conducting business in Indiana under a name, designation, or title other than the name of the corporation as shown by its articles of incorporation;

(3) a foreign corporation conducting business in Indiana under a name, designation, or title other than the name of the foreign corporation as shown by its application for certificate of authority to transact business in Indiana;

(4) a limited partnership conducting business in Indiana under a name, designation, or title other than the name of the limited partnership as shown by its certificate of limited partnership;

(5) a foreign limited partnership conducting business in Indiana under a name, designation, or title other than the name of the limited partnership as shown by its application for registration;

(6) a limited liability company conducting business in Indiana under a name, designation, or title other than as shown by its articles of organization;

(7) a foreign limited liability company conducting business in Indiana under a name, designation, or title other than the name of the limited liability company as shown by its application for registration;

(8) a limited liability partnership conducting business in Indiana under a name, designation, or title other than the name of the limited liability partnership as shown by its application for registration; and

(9) a foreign limited liability partnership conducting business in Indiana under a name, designation, or title other than the name of the limited liability partnership as shown by its application for registration;

shall file for record, in the office of the recorder of each county in which a place of business or an office of the person, limited partnership, foreign limited partnership, limited liability company, foreign limited liability company, corporation, or foreign corporation is situated, a certificate stating the assumed name or names to be used, and, in the case of a person, the full name and address of the person engaged in or transacting business, or, in the case of a corporation, foreign corporation, limited liability company, foreign limited liability company, limited partnership, or foreign limited partnership, the full name and the address of the corporation's, limited liability company's, or limited partnership's principal office in Indiana.

(b) The recorder shall keep a record of the certificates filed under this section and shall keep an index of the certificates showing, in alphabetical order, the names of the persons, the names of the partnerships, the names of the limited liability companies, the corporate names of the corporations having such certificates on file in the recorder's office, and the assumed name or names which they intend to use in carrying on their businesses as shown by the certificates.

(c) Before the dissolution of any business for which a certificate is on file with the recorder, the person, limited liability company, partnership, or corporation to which the certificate appertains shall file a notice of dissolution for record in the recorder's office.

(d) The county recorder shall charge a fee in accordance with IC 36-2-7-10 for each certificate, notice of dissolution, and notice of discontinuance of use filed with the recorder's office and recorded under this chapter. The funds received shall be receipted as county funds the same as other money received by the recorders.

(e) A corporation, limited liability company, or limited partnership subject to this chapter shall, in addition to filing the certificate provided for in subsection (a), file with the secretary of state a copy of each certificate.

(f) A person, partnership, limited liability company, or corporation that has filed a certificate of assumed business name or names under subsection (a) or (e) may file a notice of discontinuance of use of assumed business name or names with the secretary of state and with the recorder's office in which the certificate was filed or transferred. The secretary of state and the recorder shall keep a record of notices filed under this subsection.

(g) A corporation or limited partnership, domestic or foreign, that is subject to this chapter and that does not have a place of business or an office in Indiana, shall file the certificate required under subsection (a) in the office of the recorder of the county where the corporation's or limited partnership's registered office is located. The certificate must state the assumed name or names to be used, the name of the registered agent, and the address of the registered office. The corporation or limited partnership must comply with the requirements in subsection (e).

(h) The secretary of state shall collect the following fees when a copy of a certificate is filed with the secretary of state under subsection (e):

(1) A fee of:

(A) twenty dollars ($20) for an electronic filing; or

(B) thirty dollars ($30) **for a filing other than an electronic filing;**

from a corporation (other than a nonprofit corporation), limited liability company, or a limited partnership.

(2) A fee of:

(A) ten dollars ($10) for an electronic filing; or

(B) twenty-six dollars ($26) **for a filing other than an electronic filing;**

from a nonprofit corporation.

The secretary of state shall prescribe the electronic means of filing certificates for purposes of collecting fees under this subsection. A fee collected under this subsection is in addition to any other fee collected by the secretary of state.".

Delete page 28.

Page 29, delete lines 1 through 18.

Page 34, delete lines 40 through 42.

Page 35, delete lines 1 through 4.

Renumber all SECTIONS consecutively.

(Reference is to ESB 307 as printed February 15, 2008.)

T. HARRIS

Motion prevailed. The bill was ordered engrossed.

ENGROSSED SENATE BILLS ON SECOND READING

Engrossed Senate Bill 89

Representative Bardon called down Engrossed Senate Bill 89 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 89–2)

Mr. Speaker: I move that Engrossed Senate Bill 89 be amended to read as follows:

Page 85, between lines 2 and 3, begin a new paragraph and insert:

SECTION 45. IC 32-28-14-7, AS ADDED BY P.L.135-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS: Sec. 7. (a) Except as provided in subsection (b), in a voluntary conveyance, the grantee of real estate is jointly and severally liable with the grantor for all unpaid assessments against the grantor for the grantor's share of the common expenses incurred before the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts of common expenses paid by the grantee.

(b) The grantee:

(1) is entitled to a statement from the manager, board of directors, or other governing authority of the homeowners association that sets forth the amount of the unpaid assessments against the grantor; and

(2) is not liable for, and the real estate conveyed is not subject to a homeowners association lien for, any unpaid assessments against the grantor unless the lien for unpaid assessments is recorded under section 6 of this chapter before recording the deed by which the grantee takes title; **or**

(B) the grantee has actual knowledge of unpaid assessments.

(c) If the mortgagee of a first mortgage of record or other purchaser of real estate obtains title to the real estate as a result of foreclosure of the first mortgage, the acquirer of title or the acquirer's successors and assigns are not liable for the share of the common expenses or assessments by the homeowners association chargeable to the real estate that became due before the acquisition of title to real estate by the acquirer. The unpaid share of common expenses or assessments is considered to be common expenses collectible from all of the owners of real estate in the subdivision, including the acquirer or the acquirer's successors and assigns.

Section 46. IC 32-28-14-8, AS ADDED BY P.L.135-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008] Sec. 8. (a) A homeowners association **or its manager acting on behalf of the homeowners association** may enforce a homeowners association lien by filing a complaint in the circuit or superior court of the county where the real estate that is the subject of the lien is located. The complaint must be filed not later than ~~one (1) year~~ **ten (10) years** after the date the statement and notice of intention to hold a lien was recorded under section 6 of this chapter.

(b) If a lien is not enforced within the time set forth in subsection (a), the lien is void.

(c) If a lien is foreclosed under this chapter, the court rendering judgment shall order a sale to be made of the real estate subject to the lien. The officers making the sale shall sell the real estate without any relief from valuation or appraisement laws.

(d) A homeowners association or its manager acting on behalf of the homeowners association may, unless prohibited by the declaration:

(1) bid on the real estate at the foreclosure sale; and

(2) acquire, hold, lease, mortgage, and convey the real estate.

(e)An action to recover a money judgment for unpaid common expenses may be maintained without foreclosing or having a lien securing the expenses.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 89 as printed February 22, 2008.)

T. HARRIS

Motion prevailed.

HOUSE MOTION
(Amendment 89–3)

Mr. Speaker: I move that Engrossed Senate Bill 89 be amended to read as follows:

Page 15, between lines 7 and 8, begin a new line block indented and insert:

"**(21) Beginning with the 2008-2009 school year, IC 20-30-5-20 (restriction on instruction).**".

Page 15, line 8, delete "(21)" and insert "**(22)**".

Page 15, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 12. IC 20-30-5-6, AS ADDED BY P.L.246-2005, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) This section applies only to public schools.

(b) As used in this section, "good citizenship instruction" means integrating instruction into the current curriculum that stresses the nature and importance of the following:

(1) Being honest and truthful.

(2) Respecting authority.

(3) Respecting the property of others.

(4) Always doing the student's personal best.

(5) Not stealing.

(6) Possessing the skills (including methods of conflict resolution) necessary to live peaceably in society and not resorting to violence to settle disputes.

(7) Taking personal responsibility for obligations to family and community.

(8) Taking personal responsibility for earning a livelihood.

(9) Treating others the way the student would want to be treated.

(10) Respecting the national flag, the Constitution of the United States, and the Constitution of the State of Indiana.

(11) Respecting the student's parents and home.
(12) Respecting the student's self.
(13) Respecting the rights of others to have their own views and religious beliefs.
(14) Respecting the dignity and value of others when they make choices that the student believes are not the best choices.
(c) The department shall:
(1) identify; and
(2) make available;
models of conflict resolution instruction to school corporations. The instruction may consist of a teacher education program that applies the techniques to the students in the classroom to assist school corporations in complying with this section.".

Page 15, between lines 37 and 38, begin a new paragraph and insert:

"SECTION 14. IC 20-30-5-20 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 20. A public school may not allow instruction that is contrary to:**
(1) IC 31-11-1-0.5; or
(2) IC 31-11-1-1.".

Page 85, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 46. IC 31-9-2-42.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 42.5. "Domestic relationship", for purposes of IC 31-11-1-0.5, means a relationship between two (2) adults who:**
(1) are sexual partners; and
(2) share a residential dwelling.

SECTION 47. IC 31-11-1-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 0.5. Marriage is preferred, encouraged, and supported over any other domestic relationship.**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 89 as printed February 22, 2008.)

THOMPSON

Representative Bardon withdrew the call of Engrossed Senate Bill 89.

Engrossed Senate Bill 43

Representative Dvorak called down Engrossed Senate Bill 43 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 43–8)

Mr. Speaker: I move that Engrossed Bill 43 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-10-44 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 44. (a) As used in this section, "wetlands" means transitional lands between terrestrial and aquatic systems where the water table is at or near the surface or the land is covered by shallow water. The term does not include public waters wetlands or income producing wetlands.**

(b) Wetlands are exempt from property taxation if the wetlands:
(1) have a predominance of hydric soil;
(2) are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
(3) under normal circumstances support vegetation described in subdivision (2).

(c) The exemption of wetlands from property taxation under this section does not:
(1) grant the public any additional or greater right of access to any wetlands; and
(2) diminish any right of ownership to any wetlands.".

Page 7, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 8. [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] **IC 6-1.1-10-44, as added by this act, applies to property taxes first due and payable after December 31, 2008.**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 43 as printed February 22, 2008.)

C. BROWN

Motion prevailed.

HOUSE MOTION
(Amendment 43–2)

Mr. Speaker: I move that Engrossed Senate Bill 43 be amended to read as follows:

Page 7, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 8. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "committee" refers to the regulatory flexibility committee established by IC 8-1-2.6-4.**

(b) During the 2008 interim, the committee shall study the tree trimming practices of utilities.

(c) The committee shall prepare a report on the committee's recommendations, if any, concerning the issue described in subsection (b) and shall submit the report to the legislative council in an electronic format under IC 5-14-6 not later than December 1, 2008.

(d) This SECTION expires January 1, 2009.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 43 as printed February 22, 2008.)

CROOKS

Motion prevailed.

HOUSE MOTION
(Amendment 43–9)

Mr. Speaker: I move that Engrossed Senate Bill 43 be amended to read as follows:

Page 3, between lines 26 and 27, begin a new line block indented and insert:

"SECTION 2. IC 13-21-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. Except as provided in section 14.5 of this chapter, the powers of a district include the following:
(1) The power to develop and implement a district solid waste management plan under IC 13-21-5.
(2) The power to impose district fees on the final disposal of solid waste within the district under IC 13-21-13.
(3) The power to receive and disburse money, if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.
(4) The power to sue and be sued.
(5) The power to plan, design, construct, finance, manage, own, lease, operate, and maintain facilities for solid waste management.
(6) The power to enter with any person into a contract or an agreement that is necessary or incidental to the management of solid waste. Contracts or agreements that may be entered into under this subdivision include those for the following:
(A) The design, construction, operation, financing, ownership, or maintenance of facilities by the district or any other person.
(B) The managing or disposal of solid waste.
(C) The sale or other disposition of materials or

products generated by a facility.

Notwithstanding any other statute, the maximum term of a contract or an agreement described in this subdivision may not exceed forty (40) years.

(7) The power to enter into agreements for the leasing of facilities in accordance with IC 36-1-10 or IC 36-9-30.

(8) The power to purchase, lease, or otherwise acquire real or personal property for the management or disposal of solid waste.

(9) The power to sell or lease any facility or part of a facility to any person.

(10) The power to make and contract for plans, surveys, studies, and investigations necessary for the management or disposal of solid waste.

(11) The power to enter upon property to make surveys, soundings, borings, and examinations.

(12) The power to:

(A) accept gifts, grants, loans of money, other property, or services from any source, public or private; and

(B) comply with the terms of the gift, grant, or loan.

(13) The power to levy a tax within the district to pay costs of operation in connection with solid waste management, subject to the following:

(A) Regular budget and tax levy procedures.

(B) Section 16 of this chapter.

However, except as provided in sections 15 and 15.5 of this chapter, a property tax rate imposed under this article may not exceed eight and thirty-three hundredths cents ($0.0833) on each one hundred dollars ($100) of assessed valuation of property in the district.

(14) The power to borrow in anticipation of taxes.

(15) The power to hire the personnel necessary for the management or disposal of solid waste in accordance with an approved budget and to contract for professional services.

(16) The power to otherwise do all things necessary for the:

(A) reduction, management, and disposal of solid waste; and

(B) recovery of waste products from the solid waste stream;

if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.

(17) The power to adopt resolutions that have the force of law. However, a resolution is not effective in a municipality unless the municipality adopts the language of the resolution by ordinance or resolution.

(18) The power to do the following:

(A) Implement a household hazardous waste and conditionally exempt small quantity generator (as described in 40 CFR 261.5(a)) collection and disposal project.

(B) Apply for a household hazardous waste collection and disposal project grant under IC 13-20-20 and carry out all commitments contained in a grant application.

(C) Establish and maintain a program of self-insurance for a household hazardous waste and conditionally exempt small quantity generator (as described in 40 CFR 261.5(a)) collection and disposal project, so that at the end of the district's fiscal year the unused and unencumbered balance of appropriated money reverts to the district's general fund only if the district's board specifically provides by resolution to discontinue the self-insurance fund.

(D) Apply for a household hazardous waste project grant as described in IC 13-20-22-2 and carry out all commitments contained in a grant application.

(19) The power to enter into an interlocal cooperation agreement under IC 36-1-7 to obtain:

(A) fiscal;

(B) administrative;

(C) managerial; or

(D) operational;

services from a county or municipality.

(20) The power to compensate advisory committee members for attending meetings at a rate determined by the board.

(21) The power to reimburse board and advisory committee members for travel and related expenses at a rate determined by the board.

(22) In a joint district, the power to pay a fee from district money to:

(A) the **county or** counties in the district in which a final disposal facility is located; **or**

(B) a county that:

(i) was part of a joint district;

(ii) has withdrawn from the district as of January 1, 2008; and

(iii) has established its own district in which a final disposal facility is located.

(23) The power to make grants or loans of:

(A) money;

(B) property; or

(C) services;

to public or private recycling programs, composting programs, or any other programs that reuse any component of the waste stream as a material component of another product, if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.

(24) The power to establish by resolution a nonreverting capital fund. A district's board may appropriate money in the fund for:

(A) equipping;

(B) expanding;

(C) modifying; or

(D) remodeling;

an existing facility. Expenditures from a capital fund established under this subdivision must further the goals and objectives contained in a district's solid waste management plan. Not more than five percent (5%) of the district's total annual budget for the year may be transferred to the capital fund that year. The balance in the capital fund may not exceed twenty-five percent (25%) of the district's total annual budget. If a district's board determines by resolution that a part of a capital fund will not be needed to further the goals and objectives contained in the district's solid waste management plan, that part of the capital fund may be transferred to the district's general fund, to be used to offset tipping fees, property tax revenues, or both tipping fees and property tax revenues.

(25) The power to conduct promotional or educational programs that include giving awards and incentives that further the district's solid waste management plan.

(26) The power to conduct educational programs under IC 13-20-17.5 to provide information to the public concerning:

(A) the reuse and recycling of mercury in:

(i) mercury commodities; and

(ii) mercury-added products; and

(B) collection programs available to the public for:

(i) mercury commodities; and

(ii) mercury-added products.

(27) The power to implement mercury collection programs under IC 13-20-17.5 for the public and small businesses.

Renumber all SECTIONS consecutively.

(Reference is to ESB 43 as printed February 22, 2008.)

STEUERWALD

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 27

Representative L. Lawson called down Engrossed Senate Bill 27 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 27–2)

Mr. Speaker: I move that Engrossed Senate Bill 27 be amended to read as follows:

Page 1, after line 15, begin a new paragraph and insert:

"SECTION 3. IC 35-48-4-16 IS REPEALED [EFFECTIVE JULY 1, 2008].

SECTION 4. [EFFECTIVE JULY 1, 2008] **The repeal of IC 35-48-4-16 by this act applies only to offences committed after June 30, 2008."**.

(Reference is to ESB27 as printed February 22, 2008.)

DAVIS

Representative Pelath rose to a point of order, citing Rule 118, stating that the motion was attempting to incorporate into Engrossed Senate Bill 27 a bill pending before the House. The Speaker ruled the point was well taken and the motion was out of order.

There being no further amendments, the bill was ordered engrossed.

On the motion of Representative Robertson, the House adjourned at 8:40 p.m., this twenty-sixth day of February, 2008, until Thursday, February 28, 2008, at 10:00 a.m.

B. PATRICK BAUER
Speaker of the House of Representatives

CLINTON McKAY
Principal Clerk of the House of Representatives